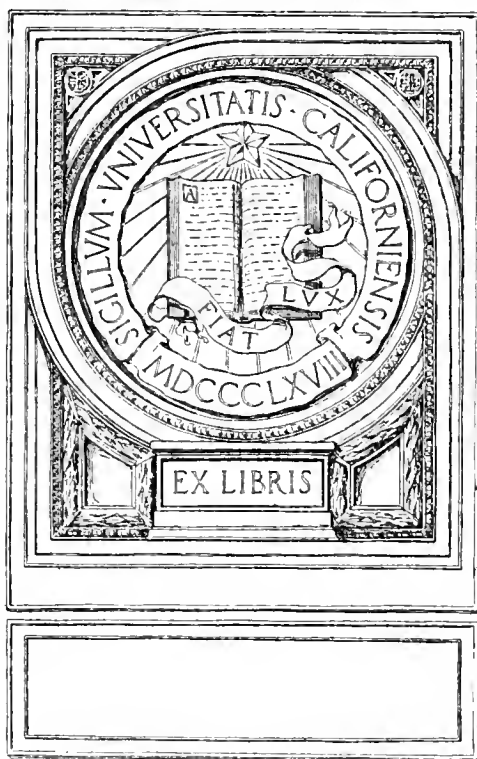




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# The University of Minnesota

STUDIES IN THE SOCIAL SCIENCES

NUMBER 7

## A HISTORY OF THE TARIFF RELATIONS OF THE AUSTRALIAN COLONIES

BY

CEPHAS DANIEL ALLIN, M.A., LL.B.

Professor of Political Science in the University of Minnesota



MINNEAPOLIS  
Bulletin of the University of Minnesota  
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## PREFACE

In a former work on *The Early Federation Movement of Australia*, the writer had occasion to deal incidentally with certain phases of the early tariff history of the Australian colonies. It is the purpose of this monograph to make a more comprehensive study of the fiscal relations of the colonies with a view to discovering what part these relations played in provincial politics and what effect they had upon the development of the spirit of Australian nationalism.

The writer desires to acknowledge his indebtedness to Mr. Evans Lewin, librarian of the Royal Colonial Institute; Mr. L. H. Sholl, under secretary of state, South Australia; Mr. J. P. Morice, parliamentary librarian, South Australia; Mr. J. R. Reid, clerk of the house of assembly, Tasmania, and to Messrs. C. Atchley and Charles H. Niblett of the Colonial Office, London, for valuable assistance in the collection and preparation of material for this monograph.

CEPHAS D. ALLIN





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# A HISTORY OF THE TARIFF RELATIONS OF THE AUSTRALIAN COLONIES

## INTRODUCTION

The history of the tariff relations of the Australian colonies, it must be confessed, is a sorry record of intercolonial jealousy and strife. The passage of the Australian Colonies Government Act of 1850 marked the emancipation of the colonies from the bondage of Downing Street. The colonies were free to work out their own destinies. But they were far from prepared as yet to take on a national status. They were but small, isolated communities in the pioneer stage of social and political organization. They knew and cared little for what was going on in the outside world. The process of social and economic unification was but slowly worked out. The scattered colonists, like the Children of Israel, were doomed by a narrow provincialism to wander for forty years in the wilderness before they were ready to enter into their national heritage.

The student who endeavors to follow the course of Australian history during this period soon finds that he has ventured into a region as dry and unpromising as the great central wastes of the inland continent he is studying. The trail is difficult to follow; the way is long and devious. He appears to get no farther forward. Time after time he crosses and recrosses his own path as the trail doubles back and forth. Year after year there are the same petty disputes, the same tiresome negotiations, the same dismal failures to be recorded. But the journey is not all so dreary. Sometimes he is led up into a high mountain where he gains a vision of a great and united Australia. Here and there an oasis is to be found in the desert. For a time the relations of the colonies become much more cordial; differences are adjusted; a spirit of common nationality makes its appearance; the dawn of a higher destiny seems at hand. The desert begins to blossom like a rose. But alas, the wells of friendship soon dry up; the drought of provincialism settles down again upon the land. The face of nature appears harder than ever before. And so after several years of apparently aimless wandering the weary student finds himself back again within sight of the starting point. The desert is still uncrossed. But the quest perhaps has not been fruitless. The trail at least has been discovered, the heart of the wilderness has been penetrated and a portion of the tortuous path mapped out for some future historian of the economic development of the Australian colonies.

To the statesman or political scientist, the tariff history of this period is of small practical or scientific value. It is a record which is concerned

almost exclusively with insignificant matters of purely local interest. It has no general economic significance. It has exerted but little influence upon the course of imperial or Australian politics. It is merely a succession of back-eddies in the stream of provincial history. There is no conscious evolution in the national life of the country. There are few political principles or clearly defined tendencies to be discovered. Such conclusions as may be drawn are almost entirely of a negative character. But throughout this blind turmoil and confusion, there stands clearly revealed, in the words of Gavan Duffy, one outstanding truth: "Neighboring states of the second rank inevitably become confederates or enemies." This principle, so abundantly demonstrated in the history of the fiscal relations of the Australian colonies, should not be lost sight of by the British empire of to-day.

It is the intention of the writer to follow up this introductory study of the customs difficulties of the Australian colonies by an investigation of the subject of intercolonial preferential trade, with special reference to the fiscal relations of the motherland and the colonies. In entering upon this field a transformation in the character of Australian history immediately ensues. The colonies are drawn into the complex world of imperial politics. The tariff relations of the colonies lose their distinctly provincial character and take on a national and imperial significance. Questions of colonial nationalism, imperial defense, and preferential trade make their appearance. But the examination of these great historical and political questions must be left for future consideration.

PART I  
THE COLONIAL OFFICE RÉGIME



## CHAPTER I

### FISCAL SQUABBLES OF THE INFANT COLONIES<sup>1</sup>

The early history of Australia is a history of the dismemberment of New South Wales and of the settlement and precarious development of the feeble but ambitious communities which were carved out of the mother colony by the colonial office. For a number of years the infant colonies remained in a state of almost complete isolation the one from the other. Each of the colonies led its own separate life, oblivious of what was going on in the contiguous but far distant communities. All the energy of each little colony was devoted to the development of its own resources and to the furtherance of its own immediate political interests. There was neither the desire nor apparently the need for a wider outlook on life.<sup>2</sup>

The British parliament took only a spasmodic interest in the affairs of its distant Oceanic possessions. The colonial office was too ill-informed to be able to supervise the policy or administration of the struggling settlements. Many of the governors were without political training or experience. In short, the colonies were obliged to shift for themselves; they were left free to work out their own salvation.

But the policy of provincial independence, though favorable at first to the development of local resources, was productive of divergent interests and conflicting fiscal legislation.<sup>3</sup> Each of the local legislatures naturally framed its tariff with a view to its own particular needs and with little thought to the interests of the sister colonies. None of the colonies at this time had a distinctive commercial policy of its own. They each and all adopted the easiest and readiest means of taxation without regard to economic principles.<sup>4</sup> The demands of the local exchequers outweighed all other considerations. The dissimilarity of economic conditions and the varying needs of the local treasuries served to accentuate the fiscal differences of the colonies. Economic and financial considerations alike appeared to favor an individualistic policy.

As the colonies grew in wealth and population their isolation gradually broke down. In the early days, a half-hearted attempt was made by some

<sup>1</sup> Almost all the material of this chapter will be found in a previous study by the writer, *The Early Federation Movement of Australia*, Chapter I, *The Germ of Federation*. The mode of treatment has been slightly modified, but the matter is practically unchanged.

<sup>2</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 79.

<sup>3</sup> Allin, "An Intercolonial Preferential Experiment," *Proceedings of the American Political Science Association*, 1907, p. 58.

<sup>4</sup> The products of Great Britain were sometimes admitted into the colonies free of duty or at a preferential rate. Westgarth, *Victoria Late Australia Felix*, appendix, 81.

of the colonies to promote intercolonial trade.<sup>5</sup> For many years after the erection of Van Dieman's Land into an independent province,<sup>6</sup> the government of New South Wales continued to treat the little island commercially as though she were still an integral part of the mother colony. By a fortunate dispensation, the products of the island were admitted free of duty into the Sydney market, whereas similar products from Great Britain and the other colonies were subjected to the regular rate of duties levied on goods from foreign states. Van Dieman's Land on her part reciprocated the liberal policy of the mother colony by specifically exempting in her Customs Duties Act all imports from New South Wales.<sup>7</sup> For a time, the remembrance of their former organic association was sufficiently strong to maintain the principle of intercolonial free trade.

But there was always the lurking danger of protection. The increasing volume of intercolonial imports offered a tempting means of increasing the revenues of the colony. In a speech at the opening of the legislative council of Van Dieman's Land in 1839, Sir John Franklin, the lieutenant governor, warned the Council against any interference with intercolonial commerce as likely to react disastrously on the interests of the colony.<sup>8</sup>

The question of the fiscal relations of the colonies again came up for consideration upon the separation of New Zealand from New South Wales. In 1842 Sir George Gipps, governor of New South Wales, introduced into the legislative council a bill to permit "the free importation into New South Wales of goods the produce or manufacture of New Zealand or Van Dieman's Land."<sup>9</sup> The business men of Sydney presented a petition to the Council to broaden the scope of the bill so as to include imports from all Australian colonies.<sup>10</sup> The petition found a staunch supporter in the Collector of Customs.<sup>11</sup> The Council, he maintained, was legally qualified to deal with intercolonial commerce without infringing upon the jurisdiction of the imperial parliament. It was especially desirable to cultivate the closest economic relations with South Australia. New South Wales had much to gain by a more liberal policy. The balance of trade with the sister colony was very favorable to New South Wales, while the duties collected on South Australian goods would amount to but a small percentage of the total revenue of the colony for many years to come. The maintenance of

<sup>5</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 79.

<sup>6</sup> In 1823 Van Dieman's Land was separated from New South Wales. 4 Geo. IV, c. 96, 5, 24.

<sup>7</sup> Rusden, *History of Australia*, 2:192.

<sup>8</sup> Van Dieman's Land, *Votes and Proceedings of the Legislative Council*, 1836-9, p. 122.

<sup>9</sup> "Whereas the free importation into New South Wales of goods and manufactures, the product of New Zealand and Van Dieman's Land, may be productive of considerable commercial advantage, it is proposed to exempt from duty all goods and manufactures imported into New South Wales from either of these colonies, which shall not be the growth or manufacture of foreign countries, spirituous liquors alone excepted, and to indemnify the officers of customs for acts already done."

<sup>10</sup> *The Sydney Morning Herald*, June 22, 1843.

<sup>11</sup> J. Gibbes, Esq.



the existing discrimination against South Australia, he concluded, could not be justified in principle, and would only be productive of jealousy and ill will.<sup>12</sup>

But the Governor came out flat-footed against the principle of an Australian preferential tariff.<sup>13</sup> Such a policy, in his judgment, was indefensible on both imperial and financial grounds. "If the council proceeded on the principle that the produce of all the Australian colonies was to be exempted here, that principle would have to be acted on hereafter and might lead to considerable loss and inconvenience." The revenues of the colony would be seriously impaired by the free admission of the products of any future colony or colonies which might be erected out of the vast northern territory. "It did not behove the council," he concluded, "to interfere with the commerce of the empire by a policy of discrimination."

The opposition of the Governor decided the issue. The rather precarious condition of the colony's finances accentuated the arguments of the Governor. The colony at this time was passing through a period of deep financial depression and could ill afford to sacrifice even a small part of its revenue.<sup>14</sup> It is possible also that the ad valorem tariff of South Australia may have deterred the Council of New South Wales from seeking to promote closer fiscal relations with their independent neighbor. Or it may be that the unfavorable attitude of the Sydney Council may have been consciously or unconsciously affected by a spirit of jealous rivalry.<sup>15</sup> South Australia was generally regarded as the favorite child of the motherland and the older sister could not always graciously recognize this partiality.

Whatever the cause or causes, the principle of an intercolonial preferential tariff was defeated. The exemption was limited to the two island colonies.<sup>16</sup> An excellent opportunity of bringing about a large measure of intercolonial free trade was lost. The proposal, it is true, did not aim at an Australian zollverein, but it could scarcely have failed to promote a community of interests between the colonies, which in course of time might have developed into a customs union.<sup>17</sup>

At this point, the English government intervened to put an end to the tariff vagaries of the colonies. Since the days of the Navigation Acts, the trade of the colonies had been regarded as the natural monopoly of the home state. From the very outset, the principles of the Mercantile system had been strictly applied to the Australian colonies. "British seamen were forbidden to go on board a foreign vessel under the penalty of a £50 fine, and

<sup>12</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 80.

<sup>13</sup> *The Sydney Morning Herald*, June 22, 1843.

Allin, *The Early Federation Movement of Australia*, 45.

<sup>14</sup> Rusden, *History of Australia*, 2:255.

<sup>15</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 80.

<sup>16</sup> Rusden, *History of Australia*, 2:192.

<sup>17</sup> Allin, *The Early Federation Movement of Australia*, 46.

no British subject was permitted to enter into any contract with the subjects of a foreign power under pain of being sent away from the colony. Ships bringing cargoes from any port of the world, unless the goods had been manufactured in Great Britain, were obliged to pay a duty of five per cent ad valorem on the amount of their invoices, and special enactments were from time to time levelled at the importations of merchandise brought from the eastward of the Cape of Good Hope."<sup>18</sup> But the days of mercantilism were ended. With the adoption of the principles of free trade in England, the colonies were released from these burdensome restrictions and their ports were thrown open to the trade of the world.<sup>19</sup> At the same time, the English government endowed the local legislatures with a large measure of fiscal autonomy in the certain hope and expectation that the colonies would recognize the superior wisdom of the fiscal policy of the motherland and dutifully follow in her footsteps.

But the colonies, as we have seen, went heedlessly on their way, quite forgetful of the demands of imperial policy. Although mildly reproachful of the untoward fiscal tendencies of the colonies, the English government did not seriously object to the imposition by the local legislatures of import duties for revenue purposes or even for protection.<sup>20</sup> But it did set its face resolutely against the disposition of some of the colonies to adopt a policy of differential duties. It was but natural that England should object to a policy of reciprocal intercolonial preference which was not only incompatible with her fiscal policy, but which actually discriminated against her in many cases.

In a memorable dispatch of January 28, 1843,<sup>21</sup> Lord Stanley clearly set forth the economic principles which should govern the relations of the colonies to one another, to the motherland, and to foreign states. At the very outset, he laid down the principle of the supreme authority of the English government and parliament in imperial fiscal matters. Colonial legislatures, he maintained, were not qualified to legislate on the subject of discriminatory duties on account of their lack "of an intimate acquaintance with the commercial treaties and political relations" of the motherland with foreign nations. Only by the maintenance of the "unanimity and consistency" of the "general code of the empire" could the crown successfully treat with foreign powers for commercial privileges or fulfill her international obligations. "For these reasons Her Majesty's government decidedly object in principle to the assumption by the local legislatures of the office of imposing differential duties on goods imported into the respective colonies. Parlia-

<sup>18</sup> Coghlan and Ewing, *Progress of Australasia in the Century*, 318.

<sup>19</sup> Egerton, *A Short History of British Colonial Policy*, 328.

Allin and Jones, *Annexation, Preferential Trade and Reciprocity*, 13.

<sup>20</sup> Egerton, *British Colonial Policy*, 404.

<sup>21</sup> New South Wales, *Votes and Proceedings of the Legislative Council*, 1843, p. 271.

ment already having prescribed the rules by which such duties are to be discriminated with reference to the place of origin and export, to parliament alone the power of altering those rules must be reserved. The single exception to this general rule must occur in any case in which Her Majesty's government may have suggested to any local legislature the enactment of any such discriminating duties." For any such exception the sanction of imperial parliament would be required. The governors were instructed to use all the "legitimate influence" of their offices "to prevent the introduction into the legislatures" of any bill imposing differential duties and in case of the passage of any such bill, to withhold their assent to its enactment. If all other preventive measures failed to check the evil, the royal veto would be inevitably forthcoming.

The home government still maintained its legislative supremacy over the empire in commercial matters.<sup>22</sup> There was still an imperial fiscal policy; only the principle was changed from protection to free trade.<sup>23</sup> The former policy of favoring British commerce by a system of preferential tariffs was now discarded in favor of a policy of promoting international free trade by the abolition of all discriminatory duties.<sup>24</sup>

The dispatch of the Secretary of the Colonies was favorably received in Australia. There was some slight criticism<sup>25</sup> of the policy as an improper interference with the fiscal independence of the colonies, but it was generally approved not only on constitutional grounds, but also as a proper and beneficial measure to protect the colonies from the dangers of discrimination.

In accordance with the new imperial policy, the Colonial Secretary rather peremptorily announced<sup>26</sup> the disallowance of the recent Preferential Act of New South Wales on the ground that such legislation would certainly lead to the adoption of retaliatory measures and to a system of protective tariffs and differential duties at variance with the commercial policy of the empire.<sup>27</sup> But the force of his lordship's contention was largely nullified by the fact that he failed to veto a somewhat similar act of the Canadian parliament granting a preference to English trade and commerce.<sup>28</sup>

The policy of the Colonial Secretary signally failed of its purpose. It was easy for his lordship to lay down the fiscal principles of the empire,

<sup>22</sup> Davidson, *Commercial Federation and Colonial Trade Policy*, ch. 2.

<sup>23</sup> In the language of Lord Grey, "Parliament did not abdicate the duty and the power of regulating the commercial policy not only of the United Kingdom but of the British Empire. The common interests of all parts of that extended empire require that its commercial policy should be the same throughout its numerous dependencies, nor is this less important than before because her policy is now directed to the removal instead of as formerly to the maintenance of artificial restrictions on trade." Grey, *Colonial Policy of Lord John Russell's Administration*, 1:281.

<sup>24</sup> Griffin, "Imperial Treaties and Preferential Tariffs," *Blackwood's Magazine*, June, 1893.

<sup>25</sup> *The Sydney Morning Herald*, June 23, 1846.

<sup>26</sup> Dispatch of August 31, 1843, from Lord Stanley to the Governor of New South Wales.

<sup>27</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 80.

<sup>28</sup> Griffin, "Imperial Treaties and Preferential Tariffs," *Blackwood's Magazine*, June, 1893.

but it was a different matter for him to enforce these principles on the self-willed colonies. He had only a negative voice on the fiscal vagaries of the local legislatures. But positive action was demanded and he was powerless to direct the courses of colonial legislation. Moreover, the dispatch of the Colonial Secretary did not go to the root of the evil. It prohibited the laying of fresh differential duties but it left the existing discriminatory tariffs untouched.<sup>29</sup> So the practice of discriminating in favor of British or colonial products went on much the same as before.<sup>30</sup> Van Dieman's Land continued to admit the produce of New South Wales free of duty, while laying a fifteen per cent tariff on the goods of South Australia and New Zealand.<sup>31</sup> And the mother colony was equally generous in her treatment of the produce of the snug little island.

The dispatch of the Colonial Secretary was equally ineffective in preventing the growth of protection duties between the colonies. Under the plea of financial necessity, several of the colonies entered upon the policy of fostering local industries. The tariffs at first were framed primarily for revenue purposes but gradually the protective features became more pronounced. South Australia had already established general ad valorem duties against the sister colonies. Van Dieman's Land followed suit by passing several enactments imposing duties on coal and tobacco imported from New South Wales. This latter legislation called forth a strong protest from the legislative council of New South Wales in the session of 1843.<sup>32</sup> A resolution was forwarded to Her Majesty's government, asking for the disallowance of the obnoxious legislation of the sister state. But nothing came of the petition. Two years later the legislative council of New South Wales was likewise guilty of imposing protective duties on colonial produce.<sup>33</sup> The measure was defended by the Colonial Secretary on the ground of imperial policy, as necessitated by the instructions of the Secretary of State prohibiting any discrimination on articles imported from abroad. But some of the members frankly justified the principle of intercolonial duties as a necessary measure for the protection of local industries.<sup>34</sup>

Van Dieman's Land was not slow in retaliating. The finances of the colony were in a deplorable condition. The debt of the colony had risen to £100,000, while the revenue was rapidly falling off.<sup>35</sup> To meet the emergency, a bill was introduced to abolish certain differential duties of cus-

<sup>29</sup> Speech of Mr. Lowe in debate in the legislative council of New South Wales on September 8, 1846. *The Atlas*, September 12, 1846.

<sup>30</sup> Westgarth, *Victoria Late Australia Felix*, appendix, 81. This was particularly the case with liquors.

<sup>31</sup> *The Sydney Morning Herald*, June 22, 1846.

<sup>32</sup> Quick and Garrahan, *The Annotated Constitution of the Australian Commonwealth*, 80. The resolution was presented by Mr. Windeyer.

<sup>33</sup> *The Atlas*, September 12, 1846.

<sup>34</sup> *The Sydney Morning Herald*, September 11, 1846.

<sup>35</sup> Coghlan and Ewing, *Progress of Australasia in the Century*, 237.

toms.<sup>36</sup> The tariff was increased from five to fifteen per cent. The dispatch of Lord Stanley again furnished the excuse for the imposition of intercolonial duties, but the real occasion<sup>37</sup> of the abrogation of the preference was the demand of the farmers for protection against the keen competition of the pastoralists of New South Wales. The proposal was strongly opposed by the independent members of the Council, six of whom resigned as a protest against the imposition of fresh duties by an irresponsible government.<sup>38</sup> Outside the Council, the bill was vigorously assailed by a portion of the press and the mercantile community as a violation of the principle of free trade and as fatal to intercolonial commerce.<sup>39</sup> But the opposition was fruitless. The official members of the council put the bill through in spite of all protests.

The act was a heavy blow to New South Wales. The agriculturists of the Port Philip district had worked up a considerable export trade to the island. But now the preference was lost, the tobacco of the mainland was subjected to a high rate of duty and the regular fifteen per cent ad valorem duty was imposed on the sheep, cattle, and provisions of the mother colony.<sup>40</sup> The legislative council was quick to resent this attack upon the colony's interests. A resolution was introduced by Mr. Windeyer praying for the royal disallowance of the recent act of Van Dieman's Land.<sup>41</sup> The motion called forth an animated discussion of the whole question of differential duties and the economic relations of the colonies.<sup>42</sup> New South Wales, it was admitted,<sup>43</sup> could not protest with good grace against the imposition of intercolonial duties as she had herself sought, though unsuccessfully,<sup>44</sup> to levy protective duties on colonial products. But it was necessary to take a definite stand against the growing evil of intercolonial duties. The danger of retaliation was already in evidence. Several of the members<sup>45</sup> favored the policy of absolute free trade between the Australian colonies, save perhaps in respect to liquors. The Colonial Secretary, E. Deas Thompson, declared "that there should be some control established as to intercolonial legislation, and it had been suggested that the appointment of a governor general would effect this, but whether such a plan was best or

<sup>36</sup> "An Act to Abolish Certain Differential Duties of Customs." *Van Dieman's Land, Votes and Proceedings of the Legislative Council*, 1846, p. 134.

<sup>37</sup> Quick and Garrahan, *The Annotated Constitution of the Australian Commonwealth*, 80.

<sup>38</sup> Cogblan and Ewing, *Progress of Australasia in the Century*, 237.

*Van Dieman's Land, Votes and Proceedings of the Legislative Council*, 1846, p. 134.

<sup>39</sup> *The Launceston Examiner* declared, "Hostile tariffs are odious and, in the case of young and adjacent colonies, destructive."

<sup>40</sup> *Van Dieman's Land, Votes and Proceedings of the Legislative Council*, 1846, p. 134.

<sup>41</sup> September 10, 1846.

<sup>42</sup> *The Sydney Morning Herald*, September 11, 1846.

<sup>43</sup> Speech of Mr. Windeyer, *The Sydney Morning Herald*, September 11, 1846.

<sup>44</sup> The bill was disallowed by the Crown. Allin, *The Early Federation Movement of Australia*, 52.

<sup>45</sup> Messrs. Robinson, Wentworth and Lowe. Mr. Robinson made an exception in case of liquors.

whether it would be wiser to establish such control by act of parliament,<sup>46</sup> he would not at present give an opinion on. Some controlling power was required, as there was too much cause to fear that acts like these would lead to retaliation." The Council was a unit in its opposition to intercolonial tariffs and the resolution was carried unanimously.<sup>47</sup>

Soon after, Governor Fitzroy recommended<sup>48</sup> the disallowance of the obnoxious legislation of Van Dieman's Land as it was extremely undesirable that the colonies in this portion of Her Majesty's domains should "be permitted to pass hostile or retaliatory measures, calculated not only to interrupt their commercial intercourse with each other, but to create feelings of jealousy and ill will among them which if not checked, may lead to mischievous results." In conclusion, he threw out a suggestion as to the advisability of appointing some superior functionary "to whom all measures adopted by the local legislatures affecting the general interests of the mother country, the Australian colonies, or their intercolonial trade should be submitted by the officers administering the several governments before their own assent is given to them."<sup>49</sup>

It was indeed high time that some measure should be taken to bring about an assimilation of the Australian tariffs. New South Wales and Van Dieman's Land had already come into collision through their protective tariffs. Soon after, South Australia revised her tariff.<sup>50</sup> Although nominally a revenue-producing tariff, a small measure of protection was extended to many local products. To the general customs schedule, which embraced over two hundred articles, there was added a special preferential rate in favor of many but not all British products. The tariff averaged about five per cent on British products and manufactures, while the rate on corresponding foreign goods approximated seven per cent.<sup>51</sup> About the same time, New Zealand framed her tariff on simple free trade lines, the customs schedule being reduced to a few leading articles of general consumption.<sup>52</sup>

The policy of the Secretary for the Colonies had sadly miscarried. The colonial legislatures had disregarded his instructions and had gone their own ways. The result was a strange melange of tariff anomalies. The principles of free trade and protection, of preferential and general ad valorem tariffs, were to be found incorporated in the tariff policies of one or the other of the Australian colonies. In truth, the well-intended efforts of the

<sup>46</sup> Mr. Robinson had expressed the hope "that the trade of these colonies might be declared free by act of parliament."

<sup>47</sup> *The Sydney Morning Herald*, September 11, 1846.

<sup>48</sup> Dispatch to the Secretary of State for the Colonies, September 29, 1846.

Allin, *The Early Federation Movement of Australia*, 53.

<sup>49</sup> Barton, "The History of Australian Federation," *The Year Book of Australia*, 1891, p. 111.

Allin, *The Early Federation Movement of Australia*, 54.

<sup>50</sup> *The Sydney Morning Herald*, October 9, 1846.

<sup>51</sup> Copy of tariff, *The Sydney Morning Herald*, January 2, 1847.

<sup>52</sup> *Ibid.*, January 5, 1847.

Colonial Secretary served to defeat the end he had in view. In endeavoring to curb the evil of differential duties, he had only succeeded in frustrating an incipient movement toward intercolonial free trade and had extended the area over which the protective principle was made applicable. Neither the influence of the colonial office nor the instructions to the governors were strong enough to bring about a policy of commercial uniformity in accordance with the dictates of imperial economics. The authority of the Crown was purely negative. It could not produce harmony out of hostile and divergent tariffs. The Australian legislatures had undoubtedly abused their powers. In the pursuit of their own selfish ends, they had entirely overlooked the general welfare of the Australian group and the empire.<sup>53</sup>

<sup>53</sup> Allin, *The Early Federation Movement of Australia*, 57.

## CHAPTER II

### THE FISCAL POLICY OF EARL GREY

The conflicting fiscal legislation of the colonies came before the English government at a fortunate moment. Earl Grey, secretary of state for the colonies, was one of the few statesmen of the time who were deeply interested in and conversant with the domestic affairs of the colonies.<sup>1</sup> He combined in his political philosophy a staunch devotion to the principles of free trade with a liberal attitude toward colonial autonomy.<sup>2</sup> He had faith in the future of the empire and was zealous to lay its sure foundations on the dual policies of colonial federation and imperial free trade.

The insistent demand of the Australian colonies for a revision of their constitutions afforded him an excellent opportunity of carrying out some of his political theories. In a dispatch of July 31, 1847,<sup>3</sup> he fully conceded the demands of the colonies for the management of their domestic affairs.<sup>4</sup> But the principle of local self government, he contended, required qualification in so far as the interests of the colonies were intercolonial or imperial in character.

"But there are questions which though local as it respects the British possessions in Australia collectively are not merely local as it respects any one of those possessions. Considered as members of the same empire, those colonies have many common interests, the regulation of which in some uniform manner and by some single authority may be essential to the welfare of them all. Yet in some cases, such interests may be more promptly, effectively, and satisfactorily decided by some authority in Australia itself than by the more remote, though less accessible and in truth the less competent authority of parliament.

"Some method will also be devised for enabling the various legislatures of the several Australian colonies to coöperate with each other in the enactment of such laws as may be necessary for regulating the interests common to those possessions collectively, such, for example, as the imposition of duties of import and export, the conveyance of letters and the formation of railroads or other internal communications traversing any two or more of such colonies."

The discriminatory fiscal legislation of the colonies had undoubtedly

<sup>1</sup> Allin, *The Early Federation Movement of Australia*, 58.

<sup>2</sup> Morrison, "British Supremacy and Canadian Autonomy," *Bulletin of the Department of History and Political and Economic Science in Queen's University*, no. 9, 1913.

<sup>3</sup> *British Parliamentary Papers, 1847-8*, vol. 42:3.

New South Wales, *Votes and Proceedings of the Legislative Council, 1847*, vol. 1:117.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 81.

<sup>4</sup> "If in future years men ask what monument has been erected to the great Minister for the Colonies, Earl Grey, it will be sufficient to point to the four corners where Englishmen live in possession of as much freedom as free institutions can bestow and to answer, Si quaeris monumentum, circumspice." Rees, *Life and Times of Sir George Grey*, 2:502.



made a deep impression upon the Colonial Secretary, for he went on to declare:

"The subject of the imposition of discriminating duties in any Australian colony on goods, the growth, produce, and manufacture of any other Australian colony will also be adverted to and provided for in that part of the contemplated act of parliament which will relate to the creation of a central legislative authority for the whole of the Australian colonies."

The federal program of the Secretary for the Colonies was unfortunately bound up with an unpopular scheme for a revision of the Australian constitutions.<sup>5</sup> In the outburst of criticism which the latter proposal called forth,<sup>6</sup> the merits of the suggested federal legislature attracted but little attention. The public were for the most part indifferent or even skeptical.<sup>7</sup> A federal legislature, at best, was regarded as an interesting experiment which might turn out to be useful in the distant future, though of no immediate value or significance. Such little favor as it won in New South Wales was largely due to the assumption that the federal assembly would meet at Sydney, from which a certain amount of prestige or influence might accrue to the mother colony.<sup>8</sup> In the Port Philip district, the federal scheme was looked upon with suspicion as a possible device for maintaining the ascendancy of Sydney notwithstanding the grant of independence to the district.<sup>9</sup>

The question came before the legislative council upon the discussion of the new constitution.<sup>10</sup> Several of the most prominent members of the Council, including Wentworth and Lowe,<sup>11</sup> favored the establishment of an inter-colonial congress, provided it were "not too numerous, held short sessions and met at fixed intervals of time." The Colonial Secretary, E. Deas Thompson,<sup>12</sup> was much more enthusiastic in his support of the project. "The advantages," he pleaded,<sup>13</sup> "of such an arrangement as this were evident, for by a mutual consideration of the interests of each province, the welfare of the whole might be protected and promoted." The relations of the colonies had become even more confused since the inhibition of discriminating duties. The fiscal differences of New South Wales and Van Dieman's Land furnished the best evidence of the need for a central legislature. "There was

<sup>5</sup> Rusden, *History of Australia*, 2:380.

Planagan, *History of New South Wales*, 2:24.

<sup>6</sup> Jebb, *Studies in Colonial Nationalism*, 63.

<sup>7</sup> New South Wales, *Votes and Proceedings of the Legislative Council*, 1849, p. 684. *British Parliamentary Papers*, 1849, vol. 35:3. *Ibid.*, 1850, vol. 37:30.

<sup>8</sup> *The Sydney Morning Herald*, January 4, 1848.

<sup>9</sup> *The Port Philip Herald*, February 3, 1848.

<sup>10</sup> *The Sydney Morning Herald*, May 3, 1848.

<sup>11</sup> For a contrary view see Tilby, *Australasia*, 209.

<sup>12</sup> Colonial Secretary of New South Wales from 1837 to 1854.

Mennell, *Dictionary of Australasian Biography*, 464.

<sup>13</sup> Allin, *The Early Federation Movement of Australia*, 75.

a pretty universal desire to see these duties removed," and this removal "would be equally advantageous to both parties."

But the interest of the Colonial Secretary in the fiscal question was not generally reflected in the Council.<sup>14</sup> The majority of the members were too absorbed in the struggle over the character of the local constitution to pay any attention to the broader question of intercolonial relations. They were not prepared to pass upon a matter so far beyond the range of practical local politics. Upon one thing only were they resolved, that in any intercolonial congress the superior wealth and population of the mother colony as compared with the other colonies should be fully recognized in the apportionment of representation. With them the question of a federal congress was one of local advantage rather than of political principle.<sup>15</sup>

In Van Dieman's Land, objection to a central authority was much more pronounced. The colony had but recently come into the enjoyment of legislative independence and it was naturally jealous of any possible curtailment of its freedom. The comparative isolation of the colony stood in the way of any effective participation in a federal assembly. But while there was a decided objection to the appointment of a governor general and to the creation of a central legislative authority, there was a clear recognition of the need for a common regulation of the fiscal relations of the colonies. In an address<sup>16</sup> from the supporters of the London Agency,<sup>17</sup> special attention was directed to the imposition of intercolonial duties, and the hope was expressed that the imperial parliament would take whatever measures were necessary "to prevent their recurrence." The restriction upon freedom of trade between the island and the Port Philip district was felt to be "not less pernicious than setting up customs between neighboring towns." As between an imperial or Australian regulation of intercolonial commerce, the colonists of Van Dieman's Land decidedly preferred the former, "well knowing that the small interests of particular governments too often prevail against the general welfare of the empire." The *Launceston Examiner* was even more specific in its demand for imperial rather than federal intervention in the customs difficulties of the colonies. "Let it be enacted," it declared,<sup>18</sup> "that in these colonies the duties on tobacco and spirits, the produce of Australia shall not exceed the lowest rate levied on similar articles imported from all other quarters, that all the produce shall be entirely free or that the customs charged shall be the same as that imposed on British goods." In short, the regulation of the commercial relations of the colonies was looked upon as essentially an imperial function.<sup>19</sup>

<sup>14</sup> *The Sydney Morning Herald, Supplement*, May 5, 1848.

<sup>15</sup> Allin, *The Early Federation Movement of Australia*, 84.

<sup>16</sup> *The Launceston Examiner*, March 22, 1848.

<sup>17</sup> This was not an official agency of the government, but a private organization.

<sup>18</sup> *The Launceston Examiner*, January 19, 1848.

<sup>19</sup> Allin, *The Early Federation Movement of Australia*, 71.

In South Australia, the plan of an intercolonial congress received but the scantest attention. The colony was too much absorbed in its own financial and political difficulties to have time or thought for intercolonial matters. Such little comment as was evoked was unfriendly in tone as it was feared that the autonomy of the colony might be affected by the ascendancy of New South Wales in the federal congress.<sup>20</sup>

The opposition of the colonies to an intercolonial congress placed the colonial office in an embarrassing position. The Secretary for the Colonies was extremely desirous of placing a limitation upon the fiscal vagaries of the colonies, but he was sorely puzzled as to the best means of accomplishing this end. An imperial enactment would have been the simplest mode of solving the difficulty. But the intervention of the imperial parliament was objectionable on principle and impracticable in operation. The government at Westminster was not in a position to frame a tariff to suit the divergent economic interests of the colonies; and the colonies on the other hand were becoming increasingly hostile to any attempt on the part of the colonial office to manage their domestic affairs. Imperial intervention was apparently out of the question. The only other alternative was an Australian assembly. But to this the colonists objected with equal if not with greater force.

The Secretary for the Colonies realized the difficulty and very wisely left the federal question for further consideration. But the fiscal complications were a much more pressing problem. A considerable trade had already sprung up between the three chief districts on the mainland; and with the improvement of the means of communication, intercourse between them was bound to become much more intimate. To this development, his lordship directed his attention in the so-called "Golden Dispatch."<sup>21</sup> "If therefore these three portions of the mainland of Australia should be placed under distinct and altogether independent legislatures, each exerting absolute authority as to the imposition of duties on goods imported, the almost inevitable result will be that such differences will grow up between the tariffs of the several colonies as will render it necessary to establish lines of internal customs houses on the frontiers of each. The extreme inconvenience and loss which each community would sustain from such measures need no explanation; it will therefore be absolutely necessary to adopt some means for providing for that uniformity in their commercial policy which is necessary in order to give free scope for the development of their great national resources and for the increase of their trade."

<sup>20</sup> *The South Australia Gazette*, May 13, 1848.

Jebb, *Studies in Colonial Nationalism*, 63.

<sup>21</sup> July 31, 1848. *British Parliamentary Papers*, 1847-8, vol. 52:44.

*Ibid.*, 1850, vol. 37:39.

New South Wales, *Votes and Proceedings of the Legislative Council*, 1849, vol. 1:309.

Not long after, Earl Grey referred the whole subject of the remodeling of the Australian constitutions to the recently reconstructed committee of the privy council for trade and plantations.<sup>22</sup> This body brought in an elaborate report in the course of which it discussed at length the allied questions of a uniform tariff and a federal assembly.<sup>23</sup>

"There yet remained a question of considerable difficulty. By far the larger part of the revenue of the Australian colonies is derived from duties on customs. But if, when Victoria shall have been separated from New South Wales, each province shall be authorized to impose duties according to its own wants, it is scarcely possible but that in process of time differences should arise between the rates of duty imposed upon the same article in the one and in the other of them. There is already such a difference in tariffs of South Australia and New South Wales, and although, till of late, this has been productive of little inconvenience, yet, with the increase of settlers on either side of the imaginary line dividing them, it will become more and more serious. The division of New South Wales into two colonies would further aggravate this inconvenience, if the change should lead to the introduction of three entirely distinct tariffs and to the consequent necessity for imposing restrictions and securities on the import and export of goods between them. So great indeed would be the evil, and such the obstruction of intercolonial trade, and so great the check to the development of the resources of each of these colonies, that it seems to us necessary that there should be one tariff common to them all, so that goods might be carried from the one into the other with the same absolute freedom as between any two adjacent counties in England.

"We are further of opinion that the same tariff should be established in Van Dieman's Land also, because the intercourse between that island and the neighboring colonies in New Holland has arisen to a great importance and extent and has an obvious tendency to increase. Yet fiscal regulations on either side of the intervening strait must, of necessity, check, and might perhaps, to a great extent, destroy that beneficial trade.

"If the duties were uniform, it is obvious that there need be no restrictions whatever imposed upon the import or export of goods between the respective colonies, and no motive for importing into one, goods liable to duty which were destined for consumption in another, and it may safely be calculated that each would receive the proportion of revenue to which it would be justly entitled, or, at all events, that there would be no departure from this to an extent of any practical importance.

"Hence it seems to us that a uniformity in the rate of duty should be secured.

"For this purpose we recommend that a uniform tariff should be established by the authority of parliament, but that it should not take effect until twelve months have elapsed from the promulgation in the several colonies of the proposed act of parliament. That interval would afford time for making any financial arrangements which the contemplated change might require in any of them, and by adopting the existing tariff of New South Wales (with some modification to adapt it to existing circumstances) as the general tariff of Australia, we apprehend that there would

<sup>22</sup> Grey, *The Colonial Policy of Lord John Russell's Administration*, 2:91.  
Adderley, *Colonial Policy and History*, 99.

<sup>23</sup> Grey, *The Colonial Policy of Lord John Russell's Administration*, 2, appendix A, 313.  
Allin, *The Early Federation Movement of Australia*, 95.  
*British Parliamentary Papers*, 1849, vol. 35:33.  
New South Wales, *Votes and Proceedings of the Legislative Council*, 1849, vol. 1:704.

be no risk of imposing upon the inhabitants of these colonies a table of duties unsuited to their actual wants. We should not, however, be prepared to offer this recommendation, unless we proposed at the same time to provide for making any alterations in this general tariff which time and experience may dictate, and this, we think, can only be done by creating some authority competent to act for all those colonies jointly.

"For this purpose, we propose that one of the governors of the Australian colonies should always hold from Your Majesty a commission constituting him the Governor General of Australia. We think that he should be authorized to convene a body to be called the General Assembly of Australia at any time and at any place within Your Majesty's Australian dominions, which he might see fit to appoint for the purpose. But we are of the opinion that the first convocation of that body should be postponed until the Governor General shall have received from two or more of the Australian legislatures addresses requesting him to exercise that power."

The powers to be granted to the general assembly were expressly enumerated. First and foremost among these powers was "the imposition of duties upon imports and exports." Among the other commercial powers of the Assembly were those in respect to lighthouses, shipping dues, weights and measures, postal facilities and the means of social and commercial intercourse between the colonies and with foreign countries. In addition to the list of enumerated subjects, the general assembly was also authorized to legislate on any matter upon "addresses for that purpose presented to them from the legislatures of all these colonies."

The Secretary for the Colonies did not wait to consult with the colonies in regard to the report of the committee, but proceeded at once to lay before parliament a bill to carry out the recommendations of the committee.<sup>24</sup> The Australian Colonies Bill was an ambitious attempt to formulate a complete constitutional organism, both state and federal, for the Australian colonies.

The clauses of the bill dealing with the adoption of uniform customs and the organization of a federal assembly were closely modeled upon the recommendations of the committee.<sup>25</sup> By the 28th section, the imperial government surrendered, with slight qualifications, its powers over the customs systems of the colonies. The colonial office had apparently come to the conclusion that the fiscal complications of the colonies could only be cured by drastic legislation, for by the following paragraph provision was made for a uniform federal tariff, the details of which were set forth in an annexed schedule. The section further provided for unrestricted freedom of trade between the colonies.

The failure of his lordship's efforts to stop the practice of colonial discrimination by means of the royal veto and instructions to the governors

<sup>24</sup> The bill was introduced on June 4, 1849, by Mr. Hawes, under secretary for the colonies.

<sup>25</sup> The federal sections of the bill may be found in Allin, *Early Federation Movement of Australia*, appendix A.

resulted in the adoption of more stringent methods of inhibition. The generality of the grant of power to the general assembly in respect to the levying of customs duties was expressly qualified by the addition of a paragraph prohibiting both the general assembly and the local legislatures from imposing any kind of discriminating duties, whether intercolonial or international in character.<sup>26</sup> The general assembly and the several legislatures were further forbidden to levy import duties upon supplies for the British army and navy or to impose any duties, grant exemptions, bounties or other privileges, or to levy shipping charges at variance with any imperial treaties.<sup>27</sup> By these express inhibitions the colonial office hoped to vindicate the supremacy of the fiscal policy of the empire against all encroachments of the colonial legislatures.

In introducing the bill into the house of commons, Mr. Hawes, under secretary for the colonies, briefly touched upon the federal and fiscal clauses of the bill.<sup>28</sup> Among the principal objects in view was the desire "to create a federal union of the colonies for certain general purposes" and "to attempt to place the colonial trade on an equal footing between colony and colony so as to place them in their commercial relations with each other on precisely the same footing as the counties in England."

The opposition, led by Mr. Gladstone, immediately opened up a vigorous assault upon the whole federal scheme of the government.<sup>29</sup> The proposed imperial tariff was found particularly objectionable as an improper extension of the activities of parliament into colonial affairs. The advantage of a uniformity of colonial tariffs was fully admitted, but such uniformity, it was maintained, should be secured by colonial rather than imperial action. The adoption of a uniform tariff in the face of Australian objections "would probably excite great jealousy and irritation of feeling among the colonists and seriously mar the good which this proposed measure would be understood to confer." Some of the leading colonial reformers, such as Molesworth, were equally opposed to the incorporation of the federal provisions in the Australian constitutions at this time.<sup>30</sup>

The government was in a dilemma. The bill was making but little progress and the session was fast drawing to a close. In the hope of overcoming some of the opposition, the Colonial Secretary announced that the government had agreed to omit the clauses providing for a common tariff among the colonies.<sup>31</sup> "He still thought there ought to be a common tariff and

<sup>26</sup> Section 34.

<sup>27</sup> Section 35.

<sup>28</sup> *Hansard*, 1849, vol. 105:1125.

<sup>29</sup> Jenks, *The Government of Victoria*, 146.

Allin, *The Early Federation Movement of Australia*, 126.

Jebb, *Studies in Colonial Nationalism*, 64.

<sup>30</sup> *The Launceston Examiner*, October 27, 1849.

<sup>31</sup> *Hansard*, 1849, vol. 106:1120.

that it would much facilitate trade among the colonies, but he found that it could not be created here without also creating the detailed machinery necessary to carry it out, and as it was never intended that that portion of the act should come into operation until one year after, there was ample time for the colonies to agree upon that subject and to introduce a measure if they thought proper to give it effect." But even this concession did not prove sufficient, and shortly after the premier announced that the whole bill would be withdrawn for the session.<sup>32</sup>

In Australia, the federal scheme of the committee of the privy council met with a somewhat more favorable reception than the original proposal of the Secretary for the Colonies.<sup>33</sup> The fiscal provisions of the report and bill were regarded with particular favor by the mercantile community in all the colonies. The legislative council of New South Wales failed to take any notice of the subject,<sup>34</sup> but some of the newspapers took up the matter with considerable enthusiasm. The *Sydney Morning Herald* came out strongly in favor of a commercial union of the colonies.<sup>35</sup> Even though the conflicting tariff interests of the several colonies might lead to friction, still, it maintained, "it is so desirable that there should be a uniformity of duties on the imports and exports of the several provinces, that for this purpose alone, were there no other, a general assembly with all the inconveniences with which it may be beset would seem to be a wise and necessary expedient."

The majority of the inhabitants of the Port Philip district purposely concealed their opposition to the general assembly for fear of defeating what was to them the much more important proposal, namely, the separation of the district from New South Wales.<sup>36</sup> But the two leading papers of the district, the *Argus* and the *Herald*, came out in favor of the adoption of a system of uniform tariffs for the colonies, though the latter strongly objected to the means by which it was proposed to bring it about.<sup>37</sup> "While the equalization of duties between the several colonies of Australia might be very desirable to fix by an imperial act, we can not but consider that the question as to the amount upon the respective articles of import would have been more satisfactorily conceded to the legislatures of the several colonies."

In Van Dieman's Land there was a marked difference of opinion in official and business circles in regard to the federal program of the English government. Sir William Denison, the lieutenant governor, objected to the

<sup>32</sup> *Ibid.*, 107:464.

<sup>33</sup> Allin, *The Early Federation Movement of Australia*, 134.

<sup>34</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 86.

<sup>35</sup> *The Sydney Morning Herald*, September 15, 1849.

<sup>36</sup> McCombie, *History of the Colony of Victoria*, 189.

<sup>37</sup> *The Melbourne Morning Herald*, October 6, 1849.

inclusion of Van Dieman's Land in the proposed commercial and political union of the colonies.<sup>38</sup> He looked at the whole question of a uniform tariff primarily from a fiscal point of view. The question, with him, was not one of fiscal theory but of financial expediency. And financially, he declared, the results of a customs union could scarcely fail to prove disastrous to the local treasury. "It may be true that the revenues would not be much affected by the legitimate process of shipping goods which have paid duty in one colony to supply the casual wants which may arise in another from a deficient supply or any other temporary cause, but a great opening would be afforded the fraudulent trader who would take goods out of bond in one colony and shipping them as for export would find means of landing them in another free of duty." The position of Van Dieman's Land was rendered all the more difficult by reason of the fact that the local exchequer was dependent upon intercolonial duties for a much larger proportion of its revenue than was the case in any of the other colonies. The adoption of a uniform tariff would thus deprive the treasury of a most promising and profitable source of income without affording any means of restoring the equilibrium of the finances of the colony.

The proposal was equally open to objection from the standpoint of imperial policy. "To allow articles imported from the Australian colonies to enter Van Dieman's Land free of duty, would in point of fact be equivalent to the imposition of a differential duty upon the produce of every other colony and of the mother colony . . . . I consider, therefore, that a more satisfactory arrangement than the one proposed by the Committee would be to leave the regulation of the import duties to the legislatures of the different colonies with the limitation by act of parliament of the amount of duty to be imposed of five per cent ad valorem or in some instances where it can be managed to some specific charge upon a given amount or weight of the article imported."

The fiscal alternative of the Governor was not distinctly original, as a somewhat similar proposal had been broached in the legislative council of New South Wales.<sup>39</sup> The policy was one that appealed to the provincialists in all the colonies. It preserved the fiscal autonomy of all the colonies, yet held out at the same time the hope of an approximate assimilation of the tariffs of all the colonies. It promised most, if not all, the economic advantages of a federal union without demanding any of the political sacrifices which a general assembly would have entailed. The Governor was equally opposed to a federal assembly, and for similar reasons. Any advantages which might possibly accrue from a union of the colonies would, in his

<sup>38</sup> Allin, *The Early Federation Movement of Australia*, 145.

*British Parliamentary Papers*, 1850, vol. 37:3.

Van Dieman's Land, *Votes and Proceedings of the Legislative Council*, 1850, p. 23.

<sup>39</sup> Debate in the legislative council, *The Sydney Morning Herald*, September 11, 1846.



judgment, be more than offset by the difficulties which would arise from the unequal yoking together of provinces whose interests were by no means the same.<sup>40</sup> The marked preponderance of New South Wales in the proposed assembly was too high a price to pay for the benefits of union, especially when these advantages might "be procured by other and more simple means."

But the fiscal views of the Governor did not find much favor among the commercial community of the Island.<sup>41</sup> Both of the leading papers of the colony came out emphatically in favor of a uniform tariff for the colonies. "It is a matter of little moment," declared the *Launceston Examiner*,<sup>42</sup> "whether along with free institutions for each of the Australian colonies a federation of all is carried or not. That they will ultimately be associated and inseparably linked in their faith is more than probable, but a present fusion is of little importance. There are, however, objects to be attained by means of a chamber of deputies which are worthy of regard. A uniform tariff and scale of duties on spirits and tobacco manufactured in the colonies, as well as the preservation of free intercourse among them, are subjects of great importance. If these matters are left to the jealousies of each, hostile tariffs and retaliatory duties may become the order of the day and prove incalculably pernicious." And to a somewhat similar effect the *Hobart Courier* remarked:<sup>43</sup> "We have far more reason to dread that local governments assisted by some particular interests that happen to be in the ascendant will make the lust of protection as they have made the lust of strong drink subservient to taxation. . . . But it is reasonably certain that a congress of colonists would render their own commerce perfectly free."

To the tradesmen of Van Dieman's Land the question of federation was in truth one of commercial advantages pure and simple. They wanted a free market for intercolonial products. Accordingly when they learned of the elimination from the Australian Colonies Bill of the clauses providing for an imperial tariff, they turned against the scheme of a federal assembly. At a public meeting at Hobart,<sup>44</sup> a resolution was adopted expressing the deep regret of the colonists "that those parts of the bill lately brought before parliament which would have released them from the present numerous intercolonial duties should have been withdrawn," and voicing the fear that the preponderance of New South Wales in the general assembly might result in the perpetuation of the evils of irresponsible government from which the colony had long suffered.

<sup>40</sup> Allin, *The Early Federation Movement of Australia*, 148.

<sup>41</sup> *Ibid.*, 139.

<sup>42</sup> *The Launceston Examiner*, October 31, 1849.

<sup>43</sup> Quoted in *The Adelaide Times*, January 3, 1850.

<sup>44</sup> *The Hobart Town Britannia*, November 22, 1849.

In South Australia, opposition to the federal plans of the colonial office was much more pronounced than in the other colonies. The legislative council with but two dissenting voices adopted a resolution declaring it "most inexpedient to create an elective general assembly."<sup>45</sup> In this opinion the Lieutenant Governor, together with the great majority of the public, heartily concurred.<sup>46</sup> The colony was much alarmed lest a federal union might inflict upon it the taint of convictism and might rob it of a portion of its legislative freedom, in particular, the control over its land policy.<sup>47</sup>

Strange to say, the question of a uniform tariff, which had commanded the chief attention in the federal discussions in the other colonies, attracted but little notice in South Australia. In the debate in the legislative council but a passing reference was made by the Advocate General to the advantages which a federal union would afford, such as "intercolonial railways, postal communication and a general scale of duties." Similar indifference prevailed out of doors. Such little comment as was evoked was unfavorable to the establishment of a uniform federal tariff on the ground that it would rob the province of its fiscal independence.<sup>48</sup>

The Secretary for the Colonies was not at all discouraged by the temporary defeat of his favorite project. The bill, he explained to the colonies,<sup>49</sup> would be reintroduced into parliament at an early date so as to insure its passage. But one important change would be made in the bill by the omission of the provisions for a uniform tariff. His lordship was as strongly convinced as ever of the importance of intercolonial free trade, but was forced to admit that "the proposed uniformity could not be carried into practical effect without a variety of subsidiary arrangements which could only be well considered and matured on the spot."

Early in the following session the Australian Colonies Bill was again brought before parliament.<sup>50</sup> Several important alterations had been made in the fiscal provisions of the bill with a view to making it more acceptable to the liberal imperialists in parliament and the colonies.<sup>51</sup> The imperial parliament withdrew from the field of colonial fiscal legislation. The question of a uniform tariff was relegated to the general assembly. The local legislatures were authorized to levy such customs duties as they might see fit, subject to an express prohibition of any discriminatory duties.

<sup>45</sup> *British Parliamentary Papers*, 1850, vol. 37:14.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 86.

<sup>46</sup> *British Parliamentary Papers*, 1850, vol. 37:14.

<sup>47</sup> *The Adelaide Times*, December 17, 1849. *Ibid.*, December 24, 1849.

Jebb, *Studies in Colonial Nationalism*, 63.

<sup>48</sup> *The Adelaide Times*, December 27, 1849.

<sup>49</sup> Dispatch, August 18, 1849. *British Parliamentary Papers*, 1850, vol. 37:64.

Allin, *The Early Federation Movement of Australia*, 169.

<sup>50</sup> *Hansard*, 1850, vol. 108:634.

<sup>51</sup> Allin, *The Early Federation Movement of Australia*, 176.

The federal clauses of the bill were likewise materially modified.<sup>52</sup> The compulsory character of the general assembly had occasioned much adverse criticism at home and in the colonies. The Secretary for the Colonies now sought to disarm this opposition by leaving the colonies to determine for themselves whether they would become members of the federal union or not.

But the hopes of his lordship were again frustrated. The federal clauses were severely attacked in both houses by the radical reformers and the Tories alike.<sup>53</sup> The proposed general assembly was denounced as premature, republican in principle,<sup>54</sup> disloyal in tendency and unjust in its allotment of representation.<sup>55</sup> Especially effective was the criticism directed against the constitutional right of the imperial parliament to devise a framework of government for the colonies save at the instance of the colonies themselves and in accordance with their express wishes.<sup>56</sup> In vain Earl Grey pleaded that the federal provisions were facultative and that a general assembly, although not immediately necessary, would nevertheless in the course of a few years become extremely desirable if not absolutely essential.<sup>57</sup> The government succeeded in getting the clauses through the house of commons by a good majority, but owing to the strength of the opposition in the upper chamber, it was thought advisable to abandon this feature of the bill altogether.<sup>58</sup>

Quite otherwise was the fate of the tariff provisions of the bill. A kindly genie attended them during their passage through both houses. The clauses were agreed to without the slightest discussion.<sup>59</sup> It might have been expected that the opposition would raise the question of imperial preferential trade, or that the Molesworth school of colonial reformers would assail such an infraction of the fiscal autonomy of the colonies. But the principle of imperial free trade was too strongly entrenched to be successfully attacked. Differential duties were particularly under the ban. Even the most liberal minded English statesmen accepted the principle of imperial regulation of colonial fiscal policies.<sup>60</sup> And in this case there was apparently the less occasion for any adverse criticism since the policy of free trade was proving eminently successful in England. The question as to whether that policy was equally adapted to Australian conditions or compatible with colonial opinion or policy was not even taken into considera-

<sup>52</sup> *Ibid.*, appendix B.

<sup>53</sup> Allin, *The Early Federation Movement of Australia*, 198.

<sup>54</sup> *Hansard*, 1850, vol. 108:1013.

<sup>55</sup> *Ibid.*, 1017.

<sup>56</sup> *Ibid.*, 110:802.

<sup>57</sup> *Ibid.*, 111:507.

<sup>58</sup> *Ibid.*, 112:602.

<sup>59</sup> Allin, *The Early Federation Movement of Australia*, 215.

<sup>60</sup> Lewis, *The Government of Dependencies*. Introduction by C. P. Lucas, 31.

tion by parliament. There was no compunction in the matter. What was best for the motherland was assumed to be equally good for the colonies. And as the local legislatures had failed to protest against the fiscal clauses of the bill, it was reasonable for parliament to assume that there was no objection in the colonies to these particular provisions.

The fiscal sections of the bill read as follows:<sup>61</sup>

"And be it enacted, that, subject to the provisions of this act, and notwithstanding any act or acts of parliament now in force to the contrary, it shall be lawful for the Governor and Legislative Council of the Colony of New South Wales, and after the establishment of legislative councils therein respectively under this act, for the respective governors and legislative councils of the colonies of Victoria, Van Dieman's Land, South Australia, and Western Australia, to impose and levy such duties of customs as to such respective governors and councils may seem fit, on the importation into such respective colonies of any goods, wares and merchandise whatsoever, whether the produce or manufacture of or imported from the United Kingdom, or any foreign country; provided always, that no new duty shall be so imposed upon the importation into any of the said colonies of any article, produce or manufacture of, or imported from, any particular country or place which shall not be equally imposed on the importation into the same colony of the like article the produce or manufacture of or imported from all other countries and places whatsoever.

"Provided also, and be it enacted, that it shall not be lawful for the legislatures of any of the said colonies to levy any duties upon articles imported for the supply of Her Majesty's land or sea forces, nor to levy any duty, impose any prohibition or restriction, or grant any exemption, bounty, drawback or other privilege, upon the importation or exportation of any articles, nor to impose any dues or charges upon shipping, contrary to or at variance with any treaty or treaties concluded by Her Majesty with any foreign power."

"The effect of these sections," Earl Grey subsequently explained to the colonies,<sup>62</sup> "is to give to the several legislatures the full power which is understood to have been hitherto curtailed by the restrictions of the various acts of parliament to impose such customs duties as they may think fit, providing only that they are not of a differential kind and do not contravene certain other regulations of minor importance."

But the explanation of the Secretary for the Colonies afforded only a partial statement of the truth.<sup>63</sup> The Australian Colonies Act did undoubtedly greatly extend the legislative competency of the colonies on fiscal and other matters, but the liberality of the grant was strictly conditioned by express provisos in favor of the imperial policy of free trade. Parliament was as much concerned about the maintenance of its fiscal authority over the whole empire as it was over the extension of colonial autonomy. The inser-

<sup>61</sup> Allin, *The Early Federation Movement of Australia*, appendix B.

<sup>62</sup> Dispatch August 30, 1850. *British Parliamentary Papers*, 1851, vol. 35:32.

New South Wales, *Votes and Proceedings of the Legislative Council*, 1851, p. 37.

Grey (Lord), *Colonial Policy of Lord John Russell's Administration*, 2, appendix A, 347.

Allin, *The Early Federation Movement of Australia*, 217.

<sup>63</sup> Paul, *History of Modern England*, 1:28.

tion into the Act of the constitutional inhibitions against discriminatory duties and the levying of customs at variance with Her Majesty's treaty obligations was designed to render inviolable the legal and political supremacy of the English government over matters of trade and commerce. It apparently did not enter the mind of parliament that these prohibitions would place a material limitation upon the power of the colonies to frame their own tariffs with a view to intercolonial reciprocity or free trade. But the colonies were soon to realize that the fiscal inhibitions of the Australian Colonies Act were almost as important as the general grant of power to impose such duties of customs as they might see fit.

The Secretary for the Colonies could not permit his favorite project of a federal union to go by the board without suggesting to the colonies the means by which they might call a central authority into existence when the need for such a body should arise, as he was certain it would in the not distant future. He was convinced at last that the initiation of a general assembly must proceed from the colonies themselves.<sup>64</sup> "The several legislatures will, it is true, be unable at once to give the necessary authority because the legislative power of each is confined of necessity within its territorial limits; but if two or more of these legislatures should find that there are objects of common interest for which it is expedient to create such an authority, they will have it in their power if they can settle the terms of an arrangement for the purpose to pass acts for giving effect to it with clauses suspending their operation until parliament shall have supplied the authority which is wanting. By such acts, the intent and objects of the powers which they are prepared to delegate to such body might be defined and limited with precision, and there can be little doubt that parliament when applied to in order to give effect to an arrangement so agreed upon would readily consent to do so."

Thus ended the ambitious attempt of the Secretary for the Colonies to solve the federal problems of the Australian colonies by the intervention of the imperial parliament.<sup>65</sup>

<sup>64</sup> *British Parliamentary Papers*, 1851, vol. 35:32.

*New South Wales, Votes and Proceedings of the Legislative Council*, 1851, p. 37.

<sup>65</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 88.

Allin, *The Early Federation Movement of Australia*, 221.

Jebb, *Studies in Colonial Nationalism*, 64.

## CHAPTER III

### THE GOVERNOR GENERAL

The setting up of the legislative councils under the new constitution<sup>1</sup> so absorbed the interests of the colonists that little or no attention was paid to the fiscal provisions of the Act. In New South Wales, some few expressions of regret at the defeat of the federal clauses were heard,<sup>2</sup> but in the other colonies their rejection was received with quiet satisfaction. The fiscal clauses of the Act were entirely neglected. Neither the local legislatures nor the press deigned to pay any attention to this important feature of the new framework of government. Both the general extension and the express restriction of the fiscal autonomy of the colonies were accepted as a matter of course. They were a well-understood part of the policy of the colonial office and as such did not require special comment or explanation.

Notwithstanding the abandonment of his scheme for a general assembly, Earl Grey did not entirely give up the hope of promoting some plan of federal coöperation among the colonies. Parliament had failed him, but he had still the royal prerogative to serve his purpose.<sup>3</sup> For the creation of a federal executive no statutory authority was required. The Colonial Secretary accordingly resolved to set up a superior governor for all the colonies who should be charged with a general supervisory control over the provincial governments on matters of general concern. To this end, Sir Charles Fitzroy, governor of New South Wales, was appointed by a special commission<sup>4</sup> "Governor General of all Her Majesty's Australian possessions, including the colony of Western Australia."

In an accompanying dispatch,<sup>5</sup> his lordship explained that the new federal officer was not expected to interfere with "matters affecting only the internal interests of any of these several colonies." The ordinary public business of each of the colonies should be carried on as heretofore by its own administrative officers, who would communicate directly with the colonial office.

"But as the expanding interests and increasing relations of these communities with each other can not fail to create a want of some means of establishing a mutual

<sup>1</sup> 13 and 14 Victoria, c. 59.

<sup>2</sup> *The Sydney Herald*, November 16, 1850.

<sup>3</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 89.

<sup>4</sup> New South Wales, *Votes and Proceedings of the Legislative Council*, 1851, p. 17.

<sup>5</sup> Jenks, *The Government of Victoria*, 156.

Allin, *The Early Federation Movement of Australia*, 227.

*British Parliamentary Papers*, 1851, vol. 35:40.

understanding and concert between them on a variety of subjects, Her Majesty's government has considered it fitting that the officer administering the government of the oldest and largest of these colonies should be provided with a general authority to superintend the initiation and foster the completion of such measures as these communities may deem calculated to promote their common welfare and prosperity. . . . In furtherance of the same purpose, the lieutenant-governors of the other colonies will be directed to communicate with you on all points in which the measures adopted in any one colony may appear calculated to affect the interests of others, and in the absence of any express instruction from Her Majesty's government, to be guided by your own judgment, should any questions arise in which more than one of the colonies is concerned.

"With the colony of Victoria, from its having hitherto formed part of New South Wales, the relation of the latter must necessarily continue to be more intimate than those which it will at present have with Van Dieman's Land and South Australia.

"This remark applied more especially to the commercial relations of the first two mentioned colonies, and I should regard it as very injurious to both that the freedom of intercourse which has hitherto existed between them should be restricted, as it must be, if differences should arise in the scale of duties imposed in the ports of each on goods imported for consumption. Hence I consider it highly necessary that there should be no legislation by either of these colonies for the purpose of altering the existing duties on imports without previous communication with the other, and I shall instruct Mr. Latrobe accordingly."

In a letter of the same date<sup>6</sup> to the Lieutenant Governor of Victoria,<sup>7</sup> Earl Grey specifically instructed the latter to keep in close communication with the Governor General on all matters of common interest.<sup>8</sup> A special injunction was issued in respect to the tariff. "And you will, I am certain, not fail to observe the caution conveyed against inadvertently allowing any legislative measure to affect that freedom of traffic between the two colonies which is so essential to their prosperity and any infringement of which would do them injury more than counterbalancing such benefit as they have derived from separation." The Lieutenant General of Van Dieman's Land was likewise instructed<sup>9</sup> that on any question affecting the interests of any other of the Australian colonies, he should be "guided by the judgment of the Governor-in-Chief in the absence of any royal instructions."

The governor of New South Wales was thus constituted "a sort of advisory over lord" or high commissioner for all the Australian colonies.<sup>10</sup> His functions were essentially consultative in character. He was expected to promote a better understanding between the colonies especially in the matter of tariff legislation, and by promoting a community of interests among them to relieve the colonial office of a part of its arduous super-

<sup>6</sup> January 13, 1851.

<sup>7</sup> Charles J. Latrobe, lieutenant governor of Victoria, 1851-54.

<sup>8</sup> *British Parliamentary Papers*, 1851, vol. 35:46.

<sup>9</sup> *Ibid.*, 51.

<sup>10</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 90.

visory duties. But notwithstanding the distinction of his office and the generality of his powers, the Governor General was a mere figurehead. He had only a negative voice in the affairs of the colonies. He was without legislative authority or executive force. He had no means of initiating a policy but by suggestion, or of promoting uniformity of legislation save by correspondence or an unwelcome visit to a neighboring colony. At best he could be but a skillful diplomat at the head of a loose federation of petty jealous-minded states.<sup>11</sup>

Sir Charles Fitzroy had a modest conception of the functions of his office, but he seems to have entertained the prospect of being able to use his powers so as "to promote and cement those friendly relations between the several colonies which are so desirable for their mutual welfare and prosperity."<sup>12</sup> In New South Wales the appointment of a governor general was received with general satisfaction as an official recognition of the political preëminence of the mother colony in the Australian group. The citizens of Sydney in particular entertained the lively hope that the federal executive would develop into a federal commonwealth with Sydney as the capital.<sup>13</sup> But in the other colonies, the nomination of a governor general did not meet with general approval. At the opening of the legislative council of Victoria, Lieutenant Governor Latrobe referred<sup>14</sup> favorably to the appointment of the governor-in-chief, but the legislative council discreetly declined to express any opinion in respect to the matter. The legislatures of South Australia and Van Dieman's Land were likewise silent. All three colonies were prone to look upon the titular ascendancy of New South Wales with more or less suspicion.<sup>15</sup> There was a tendency on the part of the press to emphasize the real independence of the several legislatures, and to deprecate correspondingly the importance of the functions of the governor general. Colonial coöperation, it was claimed, should be the free and voluntary act of the colonies and not the result of federal intervention. It was impossible, however, to determine in advance the true character of the federal executive. The conflicting policies of the colonies were soon to put the matter to the test.

The old legislative council of New South Wales passed away with a strong plea<sup>16</sup> from the Governor to the departing members that "there will always subsist between them mutual feelings of good will which can not fail to be highly beneficial to both communities and that the legislation of the two colonies on all intercolonial matters will be conducted on the most

<sup>11</sup> Allin, *The Early Federation Movement of Australia*, 237.

<sup>12</sup> New South Wales, *Votes and Proceedings of the Legislative Council*, 1851, p. 9.

<sup>13</sup> *The Sydney Morning Herald*, June 13, 1851.

<sup>14</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1851-2, vol. 1:111.

<sup>15</sup> Allin, *The Early Federation Movement of Australia*, 239.

<sup>16</sup> *British Parliamentary Papers*, 1852, vol. 35:5.



liberal principles of reciprocal advantage." To the accomplishment of those objects, the Governor pledged his best powers.

With the passing of the legislative council, the first phase of the history of the tariff relations of the colonies drew to a close. The colonial office régime, for all practical purposes, had ended.<sup>17</sup> The initiation of colonial legislation had passed to the colonies themselves,<sup>18</sup> a general oversight only over the colonies being reserved to the imperial government.

<sup>17</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 54.

<sup>18</sup> Jebb, *Studies in Colonial Nationalism*, 64.



## PART II

### BORDER CONFLICTS AND CONVENTIONS



## CHAPTER IV

### TARIFF COMPLICATIONS

Scarcely had the colonies entered upon the enjoyment of their constitutional freedom when the vital question of their fiscal relations came up for practical consideration. The subject was brought to the attention of the Secretary for the Colonies by an address from the inhabitants of Geelong in respect to the removal of intercolonial duties.<sup>1</sup> Certain persons, it appears, had raised the point that the 27th section of the Australian Colonies Act prohibiting the laying of differential duties would prevent the local legislatures from exempting colonial products and manufactures from the payment of the regular customs duties. If this contention were sustained by the executive authorities, it would prove, in the judgment of the petitioners, a serious obstacle to the promotion of that freedom of commerce which his lordship had sought to obtain by his scheme for a federal union. As the British government was fully aware "of the absurd impolicy of this unnatural exaction" it was assumed that instructions would be sent to the governors for the repeal of these oppressive duties.

The reply of the Colonial Secretary<sup>2</sup> is one of the most important documents in the economic history of Australia and the empire. The constitutional inhibition of differential duties had been considered necessary, according to his lordship, "in order to secure a uniform adherence by all the colonies to that commercial policy which had been deliberately adopted by parliament as the best for the whole British empire, and to prevent the possible adoption by any of the colonial legislatures of measures inconsistent with the engagements of the Crown with foreign powers." To this end it was indispensable that the customs charges should be uniform on goods from whatever quarter they might come. To permit a peculiar abatement of duty in favor of imports from the neighboring colonies when no such exemption was extended to the products of the mother country "would create a distinction between the privileges enjoyed by different parts of Her Majesty's dominions in trading with British colonies which would have been quite inadmissible." He heartily concurred in the opinion of the petitioners "that the trade of all the Australian colonies with one another should be as unrestricted as possible," though he could not agree with their suggestion as to the means by which to promote that end.

The difficulties of the existing situation, he pointed out, could be readily relieved by the colonial legislatures themselves through coöperative action

<sup>1</sup> *British Parliamentary Papers*, 1852, vol. 35, no. 72.

<sup>2</sup> *Ibid.*

and without recourse to imperial intervention. Since for some time to come the principal trade between the colonies "would consist in the exchange of articles of raw produce" it would be a simple matter to comply with the terms of the Imperial Act by removing the duties on all articles of this character from whatever quarter imported.

Moreover, "the colonial legislatures have the power of still further facilitating intercolonial trade by extending the system of bonding goods imported into the colonies so as to permit of their being re-exported without charge to the others; and if to this were added the adoption of a very moderate and uniform tariff in all the colonies so that there should be no inducement to smuggle from one to the other, I should hope that every necessary facility would be given for their intercourse with each other." And if, he concluded, any further action were required, it could only "be accomplished by the establishment of some such arrangement for uniting all the colonies for certain purposes as that which was proposed in the bill introduced into parliament" but subsequently reluctantly withdrawn by the government. But any such proposal must now "originate with the colonial legislatures."

In this dispatch may be found an excellent exposition of the political principles of the colonial office under Earl Grey. The superior wisdom of the English government was everywhere in evidence. There was an interesting combination of freedom and restraint. The Secretary for the Colonies decisively rejected the old Tory doctrine of imperial supremacy; he would doubtless have opposed the revised Disraelian creed that "self-government . . . ought to have been conceded as part of a great policy of imperial consolidation."<sup>3</sup> He believed in self-government for its own sake, though he would have restricted the sphere of its operations to purely domestic affairs. The great residuary powers of parliament were to be left unimpaired; and the tariff, in his judgment, was one of these powers. The colonies should be tightly bound to the fiscal apron strings of the motherland. The local legislatures were accordingly restrained from pursuing an independent policy. The economic unity of Australia was sacrificed to the principle of imperial free trade.

It must be admitted, however, that even from an Australian standpoint, there was much to justify the position of the Colonial Secretary. The fiscal relations of the colonies had been most unsatisfactory. The local legislatures were little more than parish councils. Experience had shown that they were too provincial in their outlook to give due consideration to the interests of the sister colonies. In endeavoring to forestall the development of economic sectionalism among the colonies, the English government was safeguarding the general interests of Australia. It was striving to save the

<sup>3</sup> Egerton, *British Colonial Policy*, 362.

colonies from their own folly, to prevent them from hurting themselves and from injuring one another.<sup>4</sup>

From an imperial point of view the contention of the Colonial Secretary was even stronger. It was undesirable on general principles that the citizens of any colony should treat as aliens their fellow subjects of another portion of the empire. Discriminating duties against the mother country were particularly objectionable in view of the fact that colonial products were admitted to the English market free of duty and inasmuch as the whole cost of and responsibility for the protection of the colonies was borne by the English exchequer. The motherland was treating the colonies much more liberally than they were treating her or than they were treating one another. The only grounds upon which such an unmerited discrimination could be justified was either by showing that there was an inherent unity of economic interest among the Australian group which cut them off from the general industrial and commercial interests of other parts of the empire, or by demonstrating that the several Australian colonies were prepared to grant one another reciprocal trading privileges which England and the other British colonies were not willing to offer and accept upon equal terms. But the fiscal legislation of the Australian governments failed to reveal any general recognition of a community of interest among them such as would have entitled them to demand of the home government special exemption from the commercial policy of the empire.

The English government did not venture to carry its antipathy to discriminating duties to the extent of inserting in the colonial constitutions an inhibition of protective duties. But the Secretary of State for the Colonies could not overlook such an excellent opportunity of promoting the cause of free trade as was afforded by the growing desire of some of the colonists for the commercial unification of Australia. The principle of unrestricted reciprocity in colonial products commended itself most strongly to his lordship as a means of identifying the economic interests of the Australian group with the fiscal policy of England. It would promote both intercolonial and international trade. As a further means of avoiding the threatening danger of border customs houses, he recommended concurrent action on the part of the several legislatures with a view to effecting a practical assimilation of the tariffs of the colonies upon a tariff-for-revenue-only basis. The advice of the Colonial Secretary was indeed most timely, for such a policy could scarcely have failed to promote the commercial as also the political unity of the Australian states. His lordship, however, had much overestimated the strength of Australian opinion in favor of closer commercial relations.

<sup>4</sup> Allin, "An Intercolonial Preferential Experiment," *Proceedings of the American Political Science Association*, 1907, p. 65.

The question of the fiscal relations of the colonies was brought before the local legislatures at the very outset. In New South Wales, E. Deas Thompson laid before the Council<sup>5</sup> a proposal for "a new and improved tariff." The recent discovery of gold afforded an excellent opportunity for revising the rough and ready method which had hitherto prevailed of imposing customs duties according to the temporary needs of the local exchequer. The proposed customs bill, which was based upon the most liberal principles consistent with the raising of sufficient revenue for public purposes, provided for the abolition of all differential duties on articles produced in or imported from any country.<sup>6</sup> The Governor, however, raised a question as to the expediency of proceeding with such an important measure that session and whether it might not be wiser to postpone its consideration until the following year with a view to securing concurrent action on the part of the colonial legislatures. "It appears to me," he declared,<sup>7</sup> "that the general interests of all these communities render it desirable that the same principle should be adopted as far as local circumstances will permit in the enactment of a law of this nature." The Council in reply expressed the hope that "those feelings of mutual good-will may be maintained amongst the several Australian dependencies upon the continuance of which their general prosperity and advancement must greatly depend."<sup>8</sup> In accordance with the Governor's suggestion, the proposed revision of the tariff was left over until the next session.

The executive of Victoria was equally alive to the importance of cultivating the freest commercial relations with the neighboring colonies. Lieutenant Governor Latrobe assured the Secretary of State for the Colonies that he was "fully prepared to receive and act upon the caution 'of his lordship' against the inadvisability of allowing any legislative measures" to affect the freedom of intercolonial commerce.<sup>9</sup> In his speech at the opening of the new legislative council, he accordingly declared<sup>10</sup> that whatever fiscal measures were presented to the Council would be based "upon the most liberal principles and the admission of the strict community of interests which not only binds us to the neighboring colonies but unites us with the whole commercial world. The Council will, however, doubtless agree with me that as far as the Australian colonies are concerned, it is highly expedient that they should all concur in the same general views—that our respective local acts should, as far as possible, embody and carry out the same principles. I am led to believe that no insuperable difficulties need be anticipated in securing this advantage." In the address in reply

<sup>5</sup> October 16, 1851.

<sup>6</sup> *Official History of New South Wales*, 180.

<sup>7</sup> *New South Wales, Votes and Proceedings of the Legislative Council*, 1851, p. 10.

<sup>8</sup> *Ibid.*

<sup>9</sup> *British Parliamentary Papers*, 1852, vol. 34:34.

<sup>10</sup> *Victoria, Votes and Proceedings of the Legislative Council*, 1851, vol. 2:10.



the Council expressed<sup>11</sup> their hearty concurrence in the views of the Lieutenant Governor as to the advisability of maintaining uniformity of fiscal policy through the colonies. Mr. Fawcner<sup>12</sup> immediately proceeded to follow up this favorable declaration by moving for an address<sup>13</sup> "that a bill be introduced for the repeal of all intercolonial acts imposing a duty on the importation of all goods of colonial produce or manufacture"; but a few days later he withdrew the motion and the question was allowed to rest for the session.<sup>14</sup>

But South Australia still continued to pursue an independent course. The Governor of the colony was apparently indifferent to the question of fiscal reform. At the first session of the legislative council under the new constitution, the Collector of Customs<sup>15</sup> introduced a motion to the effect that in any revision of the tariff, care should be taken that the revenue be not materially reduced below the existing amount.<sup>16</sup> The interests of the colony would, in his opinion, be best promoted by preserving the fiscal independence of the province and by leaving the Council free to adopt such tariff arrangements as might seem desirable in view of the financial condition of the colony. The motion called forth vigorous opposition from the representatives of the commercial interests in the Council.<sup>17</sup> An amendment was proposed by Mr. Hart to the effect that the tariff of South Australia should be assimilated to that of the neighboring colonies, with a view to the adoption of a uniform policy throughout Australia. But the nominated members of the Council were too strong for "the representatives of the people"<sup>18</sup> and Mr. Hart withdrew his amendment. The original motion was thereupon adopted without discussion.<sup>19</sup> The new tariff provided for a formidable array of duties, large and small, upon practically all articles of general import, levied according to a mixed system of specific and ad valorem duties.<sup>20</sup> The financial needs of the treasury decided the issue. The rush to the gold fields of the neighboring colonies had begun, and South Australia was feeling the consequences.<sup>21</sup> She was not yet in a position to coöperate with the sister colonies.

In Van Dieman's Land the importance of a good fiscal understanding between the colonies was more clearly recognized. The Hobart Town chamber of commerce at the instance of the Melbourne Chamber, took the

<sup>11</sup> *Ibid.*, 14.

<sup>12</sup> Hon. John L. Fawcner, member of legislative council for Dalhousie.

<sup>13</sup> *The Melbourne Daily News*, November 14, 1851.

<sup>14</sup> *Ibid.*, November 22, 1851.

<sup>15</sup> G. H. Dashwood.

<sup>16</sup> September 2, 1851. South Australia, *Votes and Proceedings of the Legislative Council*, 1851, p. 29.

<sup>17</sup> The Adelaide chamber of commerce objected to the system of ad valorem duties. *The Adelaide Times*, August 12, 1853.

<sup>18</sup> *The Adelaide Times*, August 12, 1853.

<sup>19</sup> South Australia, *Votes and Proceedings of the Legislative Council*, 1851, p. 29.

<sup>20</sup> Westgarth, *Victoria Lote Australia Felix*, appendix, 81.

<sup>21</sup> Coghlan and Ewing, *Progress of Australasia in the Century*, 200.

lead in the matter<sup>22</sup> and prepared a schedule of customs duties which it submitted to the local executive and legislative council for their assistance and direction in framing the new tariff.

In his speech at the opening of the legislative council, Lieutenant Governor Denison devoted a paragraph to the proposed customs bill.<sup>23</sup> "In considering the details of this measure, I have not lost sight of the advantages which this colony in common with those on the mainland would derive from a freedom of commercial intercourse as unrestricted as circumstances will permit, and I have entered into correspondence with the governments of New South Wales and Victoria with a view to the settlement of the principles upon which the free admission of articles, the produce of the respective colonies, could be best regulated." But as the fiscal proposals affected all classes of the community and as some time would necessarily elapse before the matter could be brought to a successful issue, he had thought it undesirable to postpone the introduction of the bill. The proposed tariff, however, would be found to carry out the principle of free intercourse to a large extent.

This paragraph attracted no attention in the debate upon the address, but a few days later<sup>24</sup> the subject was again brought to the notice of the Council by a message from the Governor in which he reasserted the principle that it was desirable in most cases to admit articles, the produce of adjoining colonies, free of duty, in order that intercolonial trade might be subjected to as little inconvenience as possible.<sup>25</sup> But the bill presented by the executive was not nearly as liberal in its general provisions or as favorable to intercolonial trade as it professed to be, inasmuch as several of the most important articles ordinarily imported from the neighboring colonies were intentionally excluded from the free list in the interest of local producers. The proposed tariff, in fact, was an inconsistent and complicated measure in which provision for the free admission of certain products was combined with specific duties on certain enumerated articles and a five per cent ad valorem duty on all other goods.

The matter came up for a lively debate on the second reading of the Customs Consolidation Bill.<sup>26</sup> One of the objects of this bill, according to the Attorney General,<sup>27</sup> was the repeal of the Differential Duties Act under the terms of which imports from Great Britain had previously entered the colony free of duty. This step was taken in order to bring the tariff policy of the colony into line with the provisions of the new Constitution Act

<sup>22</sup> Westgarth, *Victoria Late Australia Felix*, appendix, 33.

<sup>23</sup> Van Dieman's Land, *Votes and Proceedings of the Legislative Council*, 1852, p. 7.

<sup>24</sup> January 6, 1852.

<sup>25</sup> *The Launceston Examiner*, January 10, 1852.

<sup>26</sup> *Ibid.*, January 24, 1852.

<sup>27</sup> Valentine Fleming, subsequently chief justice of Tasmania.

prohibiting the levying of discriminatory duties. This feature of the bill did not meet with objection from any quarter of the Council, but the remaining provisions to the bill did not escape so lightly. Mr. Chapman,<sup>28</sup> the chief financial critic of the opposition, attacked the bill from the standpoint of those "who favored the establishment of an intercolonial trade perfectly free and unencumbered." The proposals of the government, he claimed, in the very first schedule, violated the liberal principles upon which the bill was supposed to be framed, by retaining a duty of fifteen per cent on several of the leading agricultural products of the colony, such as butter, cheese, and livestock. This provision was manifestly adopted in order to afford protection to the local farming and pastoral interests. He admitted that the treasury required all the revenue that it could procure, but at the same time, he maintained that if Van Dieman's Land was to retain its position in the Australian group, the system of ad valorem duties must be entirely abolished and the principle of perfect free trade be applied to their commercial relations with all the neighboring colonies, including New Zealand. The primary object of their fiscal legislation should be to promote unrestricted freedom of intercolonial trade, especially in view of the great expansion of trade which would necessarily take place in consequence of the opening up of the gold fields.<sup>29</sup> As a further step towards economic freedom, it would be most desirable to abolish the tonnage duties upon all vessels from the adjoining colonies. To bring the matter to an issue he presented an amended tariff which proposed to modify materially the original schedule of duties on the chief articles of intercolonial trade.

The executive put up an equivocal defence of its tariff policy. Although professing the most cordial approval of the principle of intercolonial free trade, it endeavored to justify the imposition of customs duties on colonial products on purely protective grounds. There was, said the Colonial Treasurer,<sup>30</sup> a fundamental objection to the abolition of the duty on cattle and sheep, inasmuch as the pastoralists of Victoria obtained their extensive holdings on much more favorable terms than the settlers of Van Dieman's Land. It was the duty of the government to protect the interests of their own agriculturalists rather than to encourage the importation of competing products in the home market. The second reading of the bill was carried without a division. However, the tariff schedules were subsequently considerably reduced in accordance with the views of Mr. Chapman and the commercial community.<sup>31</sup> The bill as finally adopted represented a compromise

<sup>28</sup> Thomas Daniel Chapman, subsequently colonial treasurer and premier of Tasmania. Mennell, *Dictionary of Australasian Biography*, 89.

<sup>29</sup> Similar views were expressed by Mr. Gleadno, a representative of the commercial interests of the colony. *The Launceston Examiner*, January 24, 1852.

<sup>30</sup> A. Turnbull, subsequently a clergyman of the Presbyterian Church.

<sup>31</sup> *The Launceston Examiner*, January 24, 1852.

between the contending farming and trading interests. The former secured a measure of protection, though not as much as they had hoped for; the latter, a reduction of the tariff together with a theoretical recognition of the wisdom of intercolonial free trade. A slight differential rate was still maintained in the case of brandy.

Although the legislatures of the several colonies had failed to adopt a uniform policy in respect to the tariff, yet the outlook for concerted action was encouraging. Under the leadership of Mr. William Westgarth<sup>32</sup> the Melbourne chamber of commerce had taken up the question of tariff reform.<sup>33</sup> Communications were addressed to the chambers of commerce at Sydney and Hobart Town, inviting their coöperation. The latter heartily concurred in the object in view. A tentative scale of customs duties was drawn up by the several Chambers for submission to their respective legislatures.<sup>34</sup> The proposed tariffs were all framed on the same general principle. Taxation was limited to a few selected articles, and a "preference was given to fixed rates of duty over the ad valorem principle." Moreover, the governors of New South Wales and Victoria were pledged to the furtherance of freedom of intercolonial trade. The legislative councils of these two colonies were likewise favorable. The customs authorities of Victoria expressed similar views.<sup>35</sup> The legislature of Tasmania had recently adopted a liberal tariff. Only South Australia was apparently hostile but by no means hopeless, as it was known that several members of the Council, backed up by outside commercial interests, were strongly convinced of the advantages of free intercolonial intercourse and were prepared to make a fight for it.

At the following session of the legislative council of New South Wales, E. Deas Thompson again brought forward his scheme of fiscal reform. The Colonial Secretary was a strong free trader and a convinced federationist. He was a man of most liberal and enlightened views as to the economic and political unity of the Australias.<sup>36</sup> He clearly perceived that the fiscal question was the bane of Australian politics, and he set himself the task of preparing the way for a future federation by removing the annoying restrictions upon intercolonial trade which were retarding the natural development of the country and fostering a feeling of alienage and even antagonism among the colonies.

The proposed tariff was a simple but important measure. It cut down the long list of dutiable goods to a few articles of general consumption.

<sup>32</sup> A prominent business man of Melbourne and a representative of that city in the legislative council. Mennell, *Dictionary of Australasian Biography*, 502.

Turner, *History of the Colony of Victoria*, 1:338.

<sup>33</sup> Rusden, *History of Australia*, 2:647.

<sup>34</sup> "Copy of Schedule," Westgarth, *Victoria Late Australia Felix*, appendix, 32.

<sup>35</sup> *Ibid.*, 33.

<sup>36</sup> Allin, *The Early Federation Movement of Australia*, 79.

Spirits, wine, beer, tobacco, tea, sugar, and coffee were made to bear almost the whole weight of the import duties.<sup>37</sup> The protective features were largely eliminated, save that a differential duty was still retained in favor of British colonial and domestic spirits.<sup>38</sup> In short, the fiscal system of the colony was placed upon a free trade basis so far, at least, as the necessity and convenience of the local treasury would permit. The bill was readily agreed to by the Council,<sup>39</sup> as it was the general opinion that the mining industry would be greatly benefited by the removal of unnecessary restrictions on intercolonial trade.<sup>40</sup> The first important step had been taken towards an assimilation of tariffs.

The Victorian executive adopted a like liberal policy. The new tariff, the Lieutenant Governor declared, at the opening of the legislative council,<sup>41</sup> had been framed to suit the condition of the colony and "to promote the unrestrained freedom of colonial and foreign trade."<sup>42</sup> Copies of the bill had been forwarded to the governments of the other colonies in the hope of securing concurrent action. The Council in reply expressed its satisfaction "with the liberal fiscal policy" of the executive and "with the judicious measures which had been taken to harmonize the commercial relations of the colonies."<sup>43</sup> The bill followed the same general lines as the recent act of New South Wales.<sup>44</sup> The differential system was abolished. The tariff schedule was freed of all the smaller duties and the burden of taxation placed on five leading articles, spirits, wines, tobacco, tea, and coffee.<sup>45</sup> The principle of specific duties was substituted for the former *ad valorem* system. Victoria had gone even farther than New South Wales in the direction of free trade.

The tide of immigration consequent upon the gold discoveries brought about a material change in the economic relations of the colonies by opening up the great interior of the continent to trade. Prior to this time, intercolonial intercourse had been carried on almost entirely along the seaboard, but with the settlement of the Murray River valley, a promising trade sprang up along the river and across the boundary lines of New South Wales, Victoria, and South Australia. This new inland trade knew nothing of intercolonial tariffs. It passed at will across the borders in search of the most accessible and profitable markets.

Here was a new problem for the local legislatures. The three mainland

<sup>37</sup> Rusden, *History of Australia*, 2:647.

<sup>38</sup> Westgarth, *Victoria Late Australia Felix*, appendix, 81.

<sup>39</sup> August 2, 1852.

<sup>40</sup> "Copy of Tariff," Coghlan, *The Wealth and Progress of New South Wales, 1900-1*, p. 154.

<sup>41</sup> June 22, 1852.

<sup>42</sup> Victoria, *Votes and Proceedings of the Legislative Council, 1852-3*, vol. 2:1.

<sup>43</sup> *Ibid.*, 3.

<sup>44</sup> Rusden, *History of Australia*, 2:647.

<sup>45</sup> Turner, *History of the Colony of Victoria*, 1:377.

colonies suddenly found themselves in possession of inland as well as sea-board boundaries. In the past they had framed their tariffs with a view to sea-board traffic alone. But now they were forced to take into consideration the need and facilities for intercolonial communications. Henceforth the commercial relations of the colonies became inseparably bound up with the fiscal problems and domestic politics of the several governments.

To Victoria fell the chief advantage of the gold immigration.<sup>46</sup> The richest strikes were made in her territory and the nearest and easiest access to the mines was through her ports.<sup>47</sup> Within the short period of two years that colony forged to the front as the premier province of Australia in trade, population, and political influence.<sup>48</sup> The commercial community of Melbourne were quick to press home their initial advantage. The first thing required was to put the intercolonial trade of the colonies on a secure and permanent basis.

The matter was brought before the legislative council by Mr. Westgarth, one of the leading business men of the capital and an influential member of the Council. On January 29, 1853, he moved<sup>49</sup> that this House "considers that an assimilation of colonial tariffs has become an object of great and unceasing importance, more particularly as regards several dutiable articles of great and general consumption, such as spirits, wine and tobacco; and that an address be presented to the Lieutenant Governor requesting him to bring the matter to the notice of the governments of the adjacent colonies "in order that such propositions may be submitted to the different legislatures as may best accomplish the important object in view." The motion met with a hearty response from the Council and the address was agreed to without a division.

The moment seemed favorable for reaching a general agreement on fiscal matters. The tariffs of the several colonies had not yet become so intricate and divergent as to make an assimilation of duties unpracticable or inequitable. The relations of the colonies were friendly and there was a growing recognition of the advantage of intercolonial coöperation in matters of general concern. The fiscal systems of New South Wales, Victoria, and Van Dieman's Land were based on the same liberal principles though the rates of duty in Van Dieman's Land were somewhat higher than in the other two colonies.<sup>50</sup> South Australia still went her own way, but there was reason to hope that the influence of the commercial community would shortly bring that province into line.<sup>51</sup> New Zealand had departed from the

<sup>46</sup> Rusden, *History of Australia*, 2:524.

<sup>47</sup> Turner, *History of Victoria*, 365.

<sup>48</sup> Lucas, *Historical Geography of the British Colonies*, 6:153.

<sup>49</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1852-3, vol. 1:391.

<sup>50</sup> Westgarth, *Victoria Late Australia Felix*, appendix, 32.

<sup>51</sup> *The Adelaide Times*, August 12, 1853.

simplicity of her earlier tariffs and had adopted a most complicated customs schedule.<sup>52</sup> But she was too remote and her commercial relations with the Australians were too small to exercise any material influence on the course of intercolonial politics.

The government of Victoria gladly complied with the request of the Council and soon after opened up negotiations with the neighboring colonies for an assimilation of tariffs.<sup>53</sup> At the same time, the Colonial Secretary<sup>54</sup> took occasion to eulogize the fiscal policy of Victoria as possessing the high merits of extreme simplicity of operation, unquestioned productiveness of revenue, and as affording the greatest facilities for trade and commerce. The successful operation of the tariff, he declared, together with its general popularity, made it extremely undesirable to attempt any alterations in its schedules. In short, the Victorian government presented its own customs duties to the other colonies as the conclusive basis for an assimilation of tariffs. There was not the faintest suggestion of a conference or consultation with the governments of other colonies for the purpose of effecting a reasonable compromise in respect to the conflicting items of the tariff. The proposal was entirely one-sided; it bore on its face the brand of provincial selfishness; it entirely disregarded the fiscal and economic needs of the other colonies; it left them only the option of accepting or rejecting in toto the tariff of Victoria.

The response of the neighboring governments, as might have been expected, was unfavorable. The Colonial Secretary of New South Wales<sup>55</sup> evinced a strong disinclination to modify the tariff of the mother colony in order to attain the theoretical advantages of an assimilation of customs. The Governor General, he wrote,<sup>56</sup> entirely concurred with the free trade principles of the Victorian executive.<sup>57</sup> But although upon "general grounds," the government of New South Wales would be "most ready and willing" to coöperate with Victoria and the other Australian colonies in an adjustment of tariffs, nevertheless in view of the highly beneficial operations of the local tariff, it did not seem expedient to consent to any material alteration in the existing rates of duty. Should circumstances, however, arise to render a revision of the customs schedule necessary or expedient, the proposals of the Victorian government would receive every consideration. But in matters of this kind which concerned the relations of the colony with the motherland and foreign states as well as with sister colonies, it was

<sup>52</sup> *The Sydney Morning Herald*, July 7, 1853.

<sup>53</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1852-3, vol. 2:407.

<sup>54</sup> Wm. Lonsdale, first colonial secretary of Victoria, 1851-53.

Mennell, *Dictionary of Australasian Biography*, 278.

<sup>55</sup> E. Deas Thompson.

<sup>56</sup> June 9, 1853.

<sup>57</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1853-4, vol. 1:669.

most undesirable to disturb the existing fiscal system "except for considerations of the most weighty character."

The reply of the Colonial Secretary<sup>58</sup> of Van Dieman's Land was even more decisive. To assimilate the tariff in all respects to that of Victoria "would," he declared,<sup>59</sup> "entail a loss upon the revenue which the exigencies of the public service would not justify." And as the existing tariff had met with the approval of the mercantile community, the government did not deem it wise to propose to the legislative council any alteration of the customs schedule.

The South Australian government proceeded with more deliberation by referring the Victorian address to G. H. Dashwood, collector of customs at Port Adelaide. The latter duly prepared an elaborate memorandum,<sup>60</sup> setting forth at length the various grounds on which he believed it inexpedient for South Australia to join in the Victorian proposal. He saw no "insuperable objections" to a partial assimilation of colonial tariffs in the matter of liquors and tobacco, if such were the desire of the Victorian Council. But if, as appeared more probable, the latter aimed at the complete acceptance of the Victorian tariff, the case was materially altered. He vigorously defended the fiscal system of South Australia against the superior pretensions of the Victorian policy of free trade. The productiveness and alleged beneficial operation of the Victorian tariff was primarily due, in his opinion, to the great increase in wealth and prosperity in that colony and to the large revenue derived from the gold fields rather than to an inherent merit in the fiscal system itself. The Victorian tariff was undoubtedly simple, but it was attended by the countervailing disadvantages of exposing the revenue to the dangers of wholesale smuggling and of bearing most heavily upon the poor, the largest class of consumers. The *ad valorem* system of South Australia was much more equitable in operation and furnished on the whole "the most convenient method of laying customs duties." He freely admitted that the simple Victorian tariff "would to some extent further the operation of persons engaged in intercolonial trade and commerce" but it would prove of little or no value to the great bulk of Australian trade which was with Great Britain and foreign lands.<sup>61</sup>

The Collector of Customs went even farther. He attacked the very principle and expediency of a uniformity of customs. So long as there existed material differences in the economic and social conditions of the several colonies, the same system of raising a revenue "might not be equally

<sup>58</sup> Col. Wm. Champ, acting colonial secretary of Tasmania, 1852-56; first premier of the colony. Mennell, *Dictionary of Australasian Biography*, 87.

<sup>59</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1853-4, vol. 1:670.

<sup>60</sup> June 24, 1853, Victoria, *Votes and Proceedings of the Legislative Council*, 1853-4, vol. 1:671.

<sup>61</sup> "So that the facilities to trade and commerce afforded by the new tariff of Victoria amount to little or nothing, and such as they are, are enjoyed only by one portion of the community."



available and consequently either one colony or the other would be seriously inconvenienced and perhaps forced to resort to other means" of supplying the financial needs of the government. The economic position and resources of Victoria and South Australia were very different. The latter could not adopt the Victorian tariff without a serious loss of revenue nor could she turn to the duties from the gold fields to supply this deficiency.<sup>62</sup> There was no means of securing an equitable assimilation of tariffs "unless the several colonial treasuries be made one common fund from which the exigencies of each government" could be supplied. But such a measure "he presumed would for many reasons be neither practicable nor desirable."

The address of the Victorian assembly was duly laid before the legislative council by the South Australian government.<sup>63</sup> The Council appointed a select committee to report upon the whole question of the tariff. As the committee reported in favor of the maintenance of the system of ad valorem duties no action was taken in respect to the Victorian address.<sup>64</sup>

The efforts of the Victorian council had signally failed. They failed because no one of the colonies was willing to sacrifice even a small measure of its fiscal independence for the common good.

<sup>62</sup> *The Adelaide Times* in an editorial of August 13, 1853, took strong exception to this assertion. It estimated the loss of revenue from assimilation at about £32,000, an amount which could "readily be made up from other sources of taxation."

<sup>63</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1853-4, vol. 1:670.

<sup>64</sup> South Australia, *Votes and Proceedings of the Legislative Council*, 1853, p. 83.

## CHAPTER V

### THE MURRAY RIVER CONVENTION

A new phase of the fiscal question was presented by the opening up of the Murray River and its tributaries to navigation.<sup>1</sup> Prior to this time the commercial intercourse of South Australia with the adjacent colonies had been limited to a small coasting trade, but with the establishment of cheap water transportation to the great interior plains, a close business connection sprang up between Adelaide and the mining and squatting population of Victoria and New South Wales.<sup>2</sup> The people of South Australia could no longer lead an isolated existence; their future prosperity was henceforth most intimately bound up with the fiscal policies and economic development of the neighboring colonies.<sup>3</sup>

The Murray River system was a natural highway of commerce, but unfortunately during a considerable portion of the year, it was a very imperfect means of communication.<sup>4</sup> Under the inspiration of Governor Young, the South Australian government set to work to improve the navigability of the river.<sup>5</sup> It constructed a tramway to the sea at Goolwa in order to avoid the dangerous bar at the mouth of the Murray; it cleared up many of the obstructions in the river channel within the colony; it assisted in the building of boats and it sought to open up the country to settlement by the laying out of townships along the course of the river. The task, however, proved altogether too great for the local executive. The Murray was an intercolonial highway, the common possession of the three riparian states. Its waters could not be appropriated to the separate or exclusive use of any one colony.

But neither Victoria nor New South Wales realized the value of the new means of communication. They manifested no interest in the new waterway and made little or no effort to improve navigation within their respective boundaries. By this inaction they not only retarded the development of their own border districts, but also frustrated the efforts of the South Australian government to open up the whole course of the river to navigation. The heavy expenditures of the latter were practically thrown away. It was of little use for South Australia to proceed with its public work unless the other colonies were prepared to coöperate in the under-

<sup>1</sup> In 1853, navigation commenced on the Murray River.

<sup>2</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 101.

<sup>3</sup> Marcus, *History of South Australia*, chap. 18.

<sup>4</sup> Wise, *The Commonwealth of Australia*, 5.

<sup>5</sup> Coghlan, *The Seven Colonies of Australasia*, 106.

taking. The Colonial Secretary<sup>6</sup> accordingly requested<sup>7</sup> the assistance of the neighboring governments in carrying forward the policy of improving the navigable channel of the river. The development of inland water communication was, he admitted, of particular importance to South Australia, but it was also "manifestly an object of very great value to the general interests of the whole of Australia."

But the governments of Victoria and New South Wales showed no readiness to respond to the invitation. The mercantile interests of the two colonies were jealous of the expenditure of any public money for purposes which did not directly contribute to their own prosperity. They were inclined to look upon the new route as a dangerous competitor for trade. They feared it might divert commerce from their own ports and territories to South Australia. The proposal of the Adelaide government looked like a specious attempt to draw their respective governments into a policy of internal improvements which would work out to the profit of their economic rivals. Instead of rejoicing at the opening up of the continent, they preferred to throw every obstacle in the way of their ambitious neighbors. In Victoria, especially, the enterprise of the sister colony was treated as an act of spoliation, an unjustifiable encroachment upon the business preserves of the Victorian capital. So far indeed did the press of Melbourne carry its jealousy that the fact that the waters of the Murray were discharged in South Australia was made an occasion of offense and a ground of complaint against that colony.<sup>8</sup> Positive measures were demanded to offset the advantages of South Australia. The business men of the city, supported by the press, began an active campaign for a governmental railroad to the Murray as the most effective means of preserving and developing trade with the interior.<sup>9</sup>

On the other hand, the scattered settlers along the border were anxious to see the river improved in order to afford them cheaper transportation and a new market for their products and supplies. Their views were brought before<sup>10</sup> the legislative council of New South Wales by one of the representatives of the Riverina district, Wm. MacLeay.<sup>11</sup> He deprecated the narrow-minded opposition of the Sydney merchants to any project which promised a greater advantage to their neighbors than to themselves and pleaded for a more liberal policy in intercolonial matters which would look to the general welfare and advancement of the whole of Australia. But

<sup>6</sup> Lieut. Colonel Boyle Travers Finniss, colonial secretary of South Australia from 1852-56. Mennell, *Dictionary of Australasian Biography*, 161.

<sup>7</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:955.

<sup>8</sup> *The Melbourne Argus*, September 10, 1855.

<sup>9</sup> *Ibid.*, November 18, 1854.

<sup>10</sup> *The Sydney Morning Herald*, July 26, 1854.

<sup>11</sup> Member of the legislative council for Lachlan and the lower Darling. Mennell, *Dictionary of Australasian Biography*, 304.

the inhabitants of the Murray River district were a feeble minority. Their distant claims could scarcely be heard among the loud clamors of the business interests of Sydney and Melbourne.

The establishment of steam communication on the Murray materially affected not only the economic but also the fiscal relations of the colonies. Prior to the discovery of the gold fields the volume of trade along the river and across the border had been comparatively insignificant. Most of the traffic consisted in small shipments of stock and mining supplies to and from New South Wales and Victoria. None of the governments attempted to collect border duties because it would not have paid them to do so. But the discovery of gold changed the whole situation. In the keen economic struggle which ensued, the merchants of Melbourne and Sydney found themselves hard pressed by their enterprising rivals. During the season of navigation it was cheaper to use the river than to make the tedious journey overland. Moreover, the South Australian traders enjoyed a fortuitous fiscal advantage in all cases in which the rates of duty were lower in that colony than in either New South Wales or Victoria. Goods could be imported into South Australia and upon payment of duty could then be shipped up the Murray without further charge.

The mercantile communities of Sydney and Melbourne were naturally dissatisfied with this condition of affairs; and some of them did not hesitate to urge upon the government the absolute necessity of erecting border customs houses to offset the economic advantages of South Australia. The Victorian and New South Wales governments lent a readier ear to the complaints of their citizens inasmuch as the local treasuries were losing considerable revenue from the free entry of goods across the Eastern border and along the course of the Murray. The South Australian fiscus was reaping a profit at the expense of the two sister colonies, for considerable quantities of goods intended for consumption in either New South Wales or Victoria and subject to duty according to their respective customs laws were now being imported by way of Goolwa and made chargeable according to the South Australian tariff instead of being entered at Sydney or Melbourne as would formerly have been the case.

The Lieutenant Governor of South Australia<sup>12</sup> had been watching with some anxiety the growing sentiment of the neighboring colonies in favor of placing some restriction upon the freedom of South Australian trade with the Riverina. The appearance of an article in one of the Sydney papers foreshadowing the intention of the New South Wales government to establish inland customs houses prompted him to take immediate steps to forestall such a dangerous policy. He accordingly opened up negotia-

<sup>12</sup> Sir H. F. Young, governor of South Australia from 1848 to 1855.

tions<sup>13</sup> with the governments of Melbourne and Sydney with a view to the adoption of a "more economical and convenient method of collecting duties on river-borne goods" than by resorting to a system of border customs. To levy duties on goods in transit would, he pointed out, entail the organization of three customs establishments at the Murray border to collect duties according to the tariffs of the respective colonies; it would involve the unloading and reloading of cargoes for purposes of inspection and would necessitate the appointment by New South Wales and Victoria of revenue officers to accompany all vessels to see that no smuggling was carried on en route. The expense and loss of time in operating such a vexatious system would neutralize the benefits of water transportation. He proposed, therefore, "that all goods subject to duty in the other colonies intended for transit up the river Murray and for consumption therein should be duly entered at a customs house in South Australia (such goods being duly paid), a declaration of destination, and a manifest and clearance obtained and that the amount of duty which had been received on such goods by the Treasurer of South Australia should be held for the credit of the colony for whose consumption they were shipped and forwarded." As no ad valorem duties were charged in the other colonies and as the articles on which specific duties were levied were the same as in South Australia the only objection to the consummation of the scheme would be the difference in the rates of duties in the three colonies. He did not anticipate, however, any serious fiscal complications from this difficulty, inasmuch as any loss of revenue which the treasuries of New South Wales and Victoria might suffer from the application of the South Australian tariff would be equalized by the saving effected in the cost of collection, while any similar loss to the Adelaide treasury would be made good by the indirect advantage to trade which the merchants of the colony would enjoy.

The Melbourne government at once referred the proposal to the Collector of Customs who prepared an elaborate memorandum<sup>14</sup> setting forth the fiscal and economic condition of the Murray River trade from a strictly Victorian standpoint.<sup>15</sup> Fortunately the views of Mr. Childers<sup>16</sup> in respect to intercolonial commercial relations were much more liberal than those of Mr. Cassells, his predecessor in office. The latter had held that no duty-paying goods whatever should be allowed to be imported into the colony by way of the Murray. But Mr. Childers assumed at the outset that it would be the desire of the Governor, for political as well as economic rea-

<sup>13</sup> November 11, 1853. *British Parliamentary Papers*, 1854, vol. 44:151.

Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:966.

<sup>14</sup> January 9, 1854.

<sup>15</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:987.

<sup>16</sup> Hugh C. E. Childers, collector of customs from 1853 to 1855, commissioner of trade and customs 1855 to 1857, subsequently Chancellor of the exchequer in England.

Mennell, *Dictionary of Australasian Biography*, 90.

sons, to encourage intercolonial trade. He approved of the principle of a customs agreement for the collection of border duties but he objected to the terms of the proposed arrangement.

There was, he pointed out,<sup>17</sup> an initial difficulty for the consideration of the law officers of the Crown inasmuch as no provision had been made by either Victoria or New South Wales for regulating the traffic on the Murray to and from South Australia. Without the legislative concurrence of the two governments it would be most difficult, if not impracticable, to control this branch of interstate commerce. It would be "unreasonable that either colony should be enabled to prevent the trade of the other with South Australia, but, on the other hand, if such traffic were permitted it would be impossible to prevent smuggling." Even though the governments should agree to coöperate, there would be serious difficulties so long as the tariffs of the two colonies were different. The duties on tobacco and spirits were lower in New South Wales than in Victoria. Traders would be quick to take advantage of this fact, in case of a joint customs agreement. Goods would be given a false destination by billing them for New South Wales and duties would be paid according to the lower tariff of that colony. Subsequently, however, the goods would be shipped across the border free of duty, thus entailing a serious loss of revenue on the part of Victoria.<sup>18</sup> The suggestion of the South Australian government, "though admissible as a temporary expedient since it obviated to some extent the difficulty of border customs, could not serve as a permanent basis of agreement for it left the revenues of both New South Wales and Victoria at the mercy of the shippers and the customs authorities of another colony." As the proposal, moreover, failed to make any provision for the produce of South Australia, it would still be necessary to set up a customs house upon the boundary to put a check on this unregulated traffic; so that in reality there would be but little saving in the cost of collection.

Mr. Childers suggested as a preferable alternative that an arrangement should be made between the colonies of New South Wales and Victoria for the collection of duties according to a uniform tariff at the South Australian boundary, "that there should be no further interference en route with either the vessels or cargoes, whatever their destination," and "that the proceeds of such duties less the cost of collection should be divided between the colonies in certain proportions to be fixed by arbitration from time to time."<sup>19</sup>

Closely associated with this subject was the important question of the permit system by which licenses were granted to bring certain produce into

<sup>17</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:987.

<sup>18</sup> *Victoria Hansard*, 1856-7, vol. 1:181.

<sup>19</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:987.

the colony duty free. Care should be taken to prevent the smuggling in of similar goods from New South Wales, and to distinguish the latter from like commodities imported under permit. The existing complications, he concluded, gave "an additional importance to the necessity of establishing a uniform tariff for these colonies."

The government of Victoria was chary about committing itself in any way to the South Australian proposal until it thoroughly understood its full significance. The Colonial Secretary<sup>20</sup> accordingly asked for a clearer explanation of the proposition of the South Australian government, particularly in respect to the collection of duties, and deduction for the cost of collection.<sup>21</sup>

In order to clear up these ambiguities, Mr. Finniss explained<sup>22</sup> that the South Australian executive intended to provide for the collection of all duties on river-borne goods according to the tariff of South Australia and "that New South Wales and Victoria would receive the sums due to them respectively as if the South Australian tariff laws were in force in those two colonies." The receipts would be placed to the credit of New South Wales and Victoria to be divided between them in such proportions as they might agree upon. If the laws of New South Wales and Victoria prevented the acceptance of the South Australia rates of duties, the governments of these two provinces should seek legislative authority to enter into the proposed convention. A special local act would be equally necessary to enable the South Australian government to collect the duties of New South Wales and Victoria and furthermore such an agreement would be open to all the objections which had been raised to the alternative Sydney proposal.<sup>23</sup> The plan of the South Australian executive, he concluded, still seemed best adapted to avoid recurrent "fiscal interference and delays to traffic," especially in view of the liberal offer of that government to collect the duties for the other two colonies entirely free of charge.

In making this explanation the Colonial Secretary does not appear to have noticed that he was materially changing the original proposition of Governor Young, although the fact that the alteration was considerably to the advantage of South Australia may have had something to do with the change. According to the dispatch of Governor Young, duties were to be collected only on goods subject to duty in the other colonies,<sup>24</sup> whereas, in the revised explanation of the Colonial Secretary, the South Australian tariff was to be applied to all river-borne goods whether such goods were

<sup>20</sup> J. F. L. Foster.

<sup>21</sup> March 8, 1854. *Victoria, Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:989.

<sup>22</sup> April 13, 1854. *Ibid.*, 990.

<sup>23</sup> For the proposal of the government of New South Wales see post, 56.

<sup>24</sup> See ante, 51.

liable to duty in the other colonies or not. This variation was soon to produce a most embarrassing situation.

The government of Victoria realized the necessity of making some arrangement to protect the treasury. A clause was accordingly inserted into the Local Customs Act<sup>25</sup> arming the executive with a large measure of discretionary power to conclude an agreement with the sister provinces for the settlement of the border question:<sup>26</sup>

"It shall be lawful for the Governor of Victoria with the advice of the Executive Council to make regulations and arrangements with the Governor of New South Wales and the Governor of South Australia for the importation of goods by or across the River Murray and for the imposition of duties and the amount thereof on such goods or the exemption of the same from duties and the recovery of duties on goods so imported into the said Colony and the repayment of such duties and in other respects so to regulate the trade on the said river as may be from time to time agreed upon by the said Governor of Victoria with the Governors of New South Wales and South Australia or either of them. Provided that no such duties shall exceed the duties of customs lawfully collected and paid on goods otherwise imported into the said Colony of Victoria."

The Victorian government gradually came to see the reasonableness of the main proposition of the South Australian government, though it still insisted upon the insertion of certain clauses to protect the revenue of the colony against the manipulation of traders. It offered<sup>27</sup> to legalize the Riverina traffic, subject to the following conditions: (1) That the duties be levied according to the South Australian tariff upon all Murray-borne goods and that the sums so received should be kept separate from the South Australian customs receipts; (2) that a distinct account be kept of all Murray goods and the consignee of the same; (3) that the duties collected be held available for Victoria except on goods landed in South Australia or New South Wales for consumption in either of the two latter colonies; (4) that the masters of all vessels enter into bonds to observe the customs laws of Victoria and render a faithful account of their traffic.

The Colonial Secretary of South Australia at once agreed<sup>28</sup> to the first and third of these conditions, which were in general accord with the proposals of South Australia. He maintained, however, that the giving of bonds by the masters of vessels was quite unnecessary.

This qualified response did not meet with the approval of Mr. Childers, who declared<sup>29</sup> that no arrangement could be considered satisfactory which did not provide for a definite acceptance of the second of the Victorian

<sup>25</sup> Victoria, 1854, no. 17, S. 20.

<sup>26</sup> *Victoria Hansard*, 1856-7, vol. 1:181.

*The Melbourne Argus*, July 4, 1856.

<sup>27</sup> Dispatch of Acting Colonial Secretary J. Moore, to the government of South Australia, June 8, 1854. Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:991.

<sup>28</sup> June 15, 1854. Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:992.

<sup>29</sup> August 8, 1854. *Ibid.*, 993.



conditions. Shortly after, the Colonial Secretary informed<sup>30</sup> the South Australian executive that Governor Hotham did not consider the article in respect to the furnishing of bonds as essential to the agreement. He did insist, however, that the revenue collected should be held available for Victoria except upon such goods as were landed in and had been entered for consumption in either New South Wales or South Australia.

The two governments had almost reached an understanding. They were prepared to concede a reasonable part of each other's demands. Victoria had agreed to accept the main principle of the South Australian proposal, viz., that the latter should collect duties according to her new tariff on goods destined for Victoria, while South Australia had expressed a willingness to recognize the legitimate demands of Victoria for special protection of her revenue against fraudulent entries.

An agreement was accordingly drawn up embodying these reciprocal concessions: (1) that duties should be levied according to the South Australian tariff upon all goods consigned via the Murray River and that such receipts be not paid into the consolidated fund of the colony but kept apart and distributed afterwards as herein provided; (2) that separate accounts be kept of all goods sent up the Murray with the names of consignees; (3) that the revenue so collected be held available for the colony of Victoria so far as its tariff permits except upon such goods as may be landed in New South Wales or South Australia and may be proved to have entered into consumption in the two latter colonies; (4) that no goods be sent up under bond and that no drawbacks be allowed by the South Australian government.<sup>31</sup> But for this inhibition it would still have been necessary to have set up border customs houses to collect the duties on imports into either of the upper riparian colonies. The terms of the agreement were duly accepted by the Victorian government and soon after the Adelaide executive issued a proclamation announcing the conclusion of the first border convention.<sup>32</sup>

It was very evident, however, from the correspondence, that the agreement was far from a final settlement of the Murray River question. It was at best a mere *modus vivendi*. In making the arrangement, the two governments had different objects in view, the one fiscal, the other economic. Victoria was seeking to secure its legitimate customs duties; South Australia to promote freedom of intercolonial trade. Mr. Childers would have preferred to make an agreement with New South Wales for the joint collection of duties at the South Australian line.<sup>33</sup> But in the absence of some

<sup>30</sup> September 4, 1854. *Ibid.*, 993.

<sup>31</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1195, *Victoria Hansard*, 1856-7, vol. 1:181.

<sup>32</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1195.

<sup>33</sup> See ante, 96.

such agreement which would have defeated the very object that South Australia had in view, the Victorian executive was left with practically no option but to accept the terms proposed by South Australia. The revenues of the colony had to be protected, and the government was not prepared to set up an independent customs establishment on the South Australian boundary.

The settlement was regarded with even less satisfaction by the general public. The Melbourne merchants still found themselves exposed to the keen competition of their Adelaide rivals. Victoria, it was charged, had been placed in a humiliating position.<sup>34</sup> She had been called upon to surrender one of the most important functions of government; she was dependent upon the good offices of a sister colony for the collection of her own revenues. The arrangement was doubtless unavoidable for the present at least, but it was accepted with very poor grace. It served to stimulate the demand that the capital should be placed in direct railroad communication with the Riverina. Until this object was obtained, Victoria could not feel that she had come into the full possession of her fiscal and economic independence.

The government of New South Wales did not take kindly to the proposal of the South Australian executive in respect to the Murray River customs. There were, Mr. E. Deas Thompson explained,<sup>35</sup> many reasons in the opinion of the Council for declining to adopt the proposed arrangement. One fundamental difficulty barred the way at the very outset. The executive had been advised by the law officers of the Crown<sup>36</sup> that it could not legally enter into or rather act upon the proposition of the South Australian government on account of the difference in the tariffs of the two colonies. It would not be constitutional to differentiate between different parts of New South Wales, to impose the tariff of South Australia upon all goods entering the colony via the Murray and the general New South Wales customs act upon all other portions of the colony. Such being the case, the government of New South Wales would prefer an arrangement by which an officer of customs representing the three colonies should be placed on each steamer to receive the customs duties to which each colony was properly entitled under its own tariff. By this means each colony could still maintain its own tariff system and would be assured of its due proportion of the duties collected. The expense of maintaining the necessary officials could be borne in equal proportions by the three colonies.

But the counter proposal of New South Wales was promptly rejected by South Australia as imposing a burdensome restriction on intercolonial

<sup>34</sup> *The Melbourne Argus*, November 18, 1854.

<sup>35</sup> January 23, 1854. Victoria, *Votes and Proceedings of the Legislative Council*, 1854-5, vol. 1:988.

<sup>36</sup> *British Parliamentary Papers*, 1854, vol. 44:25.

trade.<sup>37</sup> It was likewise condemned by the Victorian executive as "clearly inadmissible since goods intended for Victoria could be landed in New South Wales under their smaller tariff and then be smuggled across to Victoria."<sup>38</sup>

New South Wales now found herself in the same difficult position as was Victoria. The urgent need for protecting the revenue of the colony forced the government to reconsider its attitude on the border question and to look with a more favorable eye upon the offer of South Australia. The counter proposition of New South Wales was admittedly "cumbrous and insufficient"<sup>39</sup> inasmuch as it did not dispense with the establishment of border customs; whereas the proposal of South Australia was simple, inexpensive, and most favorable to the development of intercolonial trade. The recent downward revision of the tariff on several of the leading imports strengthened the fiscal position of New South Wales and removed the chief objection to an intercolonial agreement. Owing to legal difficulties the government could not enter into an arrangement at once, but it intimated<sup>40</sup> to the South Australian executive its readiness to introduce a bill at the coming session of the legislature to give the necessary parliamentary sanction to the South Australian proposal.

Towards the close of the year<sup>41</sup> the matter of the Murray duties was brought before the Council by the Colonial Secretary on a motion<sup>42</sup> "that this Council is of the opinion that all goods subject to duty and intended for transit up the river Murray for consumption in this colony should be duly entered at a customs house in South Australia (such goods being duty paid according to the South Australian tariff), and a declaration of destination made and a manifest and clearance obtained and that the amount of duties on goods which had been received by the Treasury of South Australia should be held to the credit of this colony."<sup>43</sup>

Various propositions, said the Colonial Secretary, had been made by the three governments looking to a settlement of the border difficulty, but until recently neither New South Wales nor Victoria had been able to accept the proposition of South Australia. But the Governor of South Australia had recently submitted a proposition which was superior even to that suggested by this government in 1853. As the legal difficulty had been practically overcome by the new tariff, there was, he concluded, noth-

<sup>37</sup> Debate in the Legislative Council, South Australia, January 31, 1856. *South Australia Register*, February 1, 1856.

<sup>38</sup> Victoria, *Notes and Proceedings of the Legislative Council*, 1854-5, vol. 1:989.

<sup>39</sup> Speech of the Colonial Secretary, New South Wales, in the Legislative Council, November 23, 1854. *The Sydney Morning Herald*, November 24, 1854.

<sup>40</sup> *Ibid.*

<sup>41</sup> November 23, 1854.

<sup>42</sup> *The Sydney Morning Herald*, November 24, 1854.

<sup>43</sup> Preamble, New South Wales, 19, Victoria, no. 21.

ing now in the way of a satisfactory settlement of the border difficulty. The Colonial Secretary, however, had misinterpreted the legal aspects of the question and the Solicitor General<sup>44</sup> was under the necessity of setting the matter straight. There were, the latter pointed out, the same legal difficulties in carrying out this arrangement that there had been in accepting the original proposition, but "in fiscal matters of this kind he thought the government would be justified in acting in accordance with the will of the legislature." In other words, the government would waive the letter of the customs act in order to serve the convenience of intercolonial trade.

The debate revealed the general satisfaction of the Council with the proposed arrangement.<sup>45</sup> The terms were so liberal, in fact, that Mr. MacLeay expressed his inability to understand why the government of New South Wales had not assented to them when first proposed. The Collector of Customs<sup>46</sup> voiced the fear that the South Australian government might not be willing to carry out its offer when it became acquainted with the tariff alterations of New South Wales.<sup>47</sup> The lowering of the duties would almost certainly prove prejudicial to the trade and revenue of South Australia as the latter would henceforth have much to pay and little to receive by way of compensation for the cost of collection. The fiscal position of New South Wales on the other hand would be greatly improved. Mr. Campbell went even further than the other members in his recognition of the principle of intercolonial coöperation. The three colonies, he contended, should contribute equally to the cost of collecting duties on the Murray and not shoulder the expense off on a sister colony. After a short discussion the Council unanimously approved the understanding with South Australia.<sup>48</sup>

In accordance with the supposed understanding with the other two governments, the Collector of Customs at Port Adelaide set forth in the local *Government Gazette* the principles which should govern the customs officials of South Australia in respect to the collection of duties on Riverina trade.<sup>49</sup> "Customs hereafter would be levied on all goods going up the Murray according to the South Australia tariff and in respect to goods intended for consumption in New South Wales or Victoria the Colonial Treasurer would be instructed to place to the credit of the respective governments the amount which would have been leviable on duties of customs if the goods had been landed in the first instance at some point in either

<sup>44</sup> Wm. Montagu Manning, solicitor general of New South Wales, 1849-1856.

<sup>45</sup> *The Sydney Morning Herald*, November 24, 1854.

<sup>46</sup> G. N. Gibbes.

<sup>47</sup> A contrary opinion, however, was expressed by Mr. C. Cowper.

<sup>48</sup> *The Sydney Morning Herald*, November 24, 1854.

<sup>49</sup> Speech of the Colonial Treasurer in Legislative Council, South Australia, January 31, 1856. *The South Australia Register*, February 1, 1856.

of the aforesaid colonies to the extent that the duty collected on the said goods under the South Australian tariff would permit."

In this notification, the Collector of Customs further complicated matters by placing a still different interpretation upon the policy of his own government. Instead of handing over to the neighboring colonies the full amount of duties collected on river-borne traffic according to the tariff of South Australia, whether such goods were liable to duty in the other colonies or not, he proposed to pay over only so much of the proceeds as would have been leviable under the tariffs of the respective colonies. In other words, the Adelaide government, according to the Collector of Customs, would undertake the trouble and expense of collecting the Murray River customs for the other colonies in return for which it would take the chance of making a profit out of the differences in the tariff of South Australia and those in effect in the sister provinces.<sup>50</sup> When, for example, the duties on articles were higher in South Australia than in New South Wales, the latter would only be credited with the amount she would have received under her own tariff; the difference between this amount and that actually received by the customs officials of South Australia being kept as compensation for the cost of collection. In all cases in which articles were on the free list in New South Wales but duties were imposed in South Australia, the latter stood to gain the whole amount of the duty. Where, on the other hand, the tariff of New South Wales was less than that of South Australia, the mother colony would again be the loser as she would only receive the smaller sum levied under the tariff of South Australia. But in the latter case the private importer and not the Adelaide government would be the gainer. In short, the arrangement would have been most favorable to South Australia. She risked nothing and bade fair to make a considerable profit at the expense of her sister colonies since the tariff of South Australia was in the main both higher and more comprehensive than that in effect in New South Wales or Victoria. Strange to say, the mistake of the Collector of Customs was not detected by the executive of South Australia. The notice was allowed to gain full currency as the true and proper expression of the policy of the government.<sup>51</sup>

In due course a copy of the notice was forwarded to the Sydney government whose officials at once discovered the error. The Acting Colonial Secretary<sup>52</sup> immediately pointed out to South Australia that the notification did not cover the terms of the understanding between the colonies and requested that the mistake be corrected.<sup>53</sup> At the same time he enclosed a copy

<sup>50</sup> *The South Australia Register*, February 1, 1856.

<sup>51</sup> *Ibid.*, October 16, 1855.

<sup>52</sup> C. D. Riddell.

<sup>53</sup> Speech of the Colonial Treasurer, South Australia, January 31, 1856. *The South Australia Register*, February 1, 1856.

of the bill which the government had introduced to legalize the Murray River agreement.<sup>54</sup> The preamble of the bill distinctly reaffirmed the interpretation of the agreement as set forth in the recent resolution of the Council. "Whereas, it was some time since proposed by the government of South Australia that all goods subject to duty in the colonies of New South Wales and Victoria intended for transit up the river Murray and consumption in such colonies respectively should be duly entered at a customs house in South Australia and the duty paid thereon according to the tariff of South Australia . . . and that the amount of duties received on such goods by the Treasury of South Australia shall be held for the credit of the colony for whose consumption they were shipped and forwarded. . . ."<sup>55</sup> In other words, South Australia would be called upon to pay over the full amount of the Murray River customs without reduction by way of drawback or charge for collection. The boot was thus shifted to the other foot as far as South Australia was concerned, for instead of making a profit out of her fiscal agency on the Murray, she was now expected to maintain a customs establishment free of charge for the benefit of her sister colonies.<sup>56</sup>

Up to this point the negotiations between the colonies had been primarily concerned with traffic to and from South Australia by way of the Murray. But a more serious phase of the border question was now presented in respect to trade across the Murray.

For some time past the government of New South Wales had been troubled by the loss of revenue along the southern border, through the free importation of goods from Victoria. The merchants of Sydney were displeased at the diversion to Melbourne of a considerable portion of the southwestern trade of the colony. Only the border settlers were rejoicing in their immunity from customs duties. But such a condition of affairs could not long continue. It was neither reasonable nor just that the inhabitants of the Riverina should escape paying their fair share of the taxes of the colony.

Accordingly, in 1854, the New South Wales executive decided to send a customs officer to Albury, the principal point of entry for goods from Victoria.<sup>57</sup> The Victorian government soon after retaliated by setting up a customs house on its side of the Murray. The Sydney government in turn proceeded to establish another customs house at Marden's Point and dis-

<sup>54</sup> New South Wales, 19, Victoria, no. 21.

<sup>55</sup> The bill continued, "The Colonial Treasurer of South Australia will be instructed to place to the credit of the government of New South Wales or Victoria, as the case may be, the amount which would have been leviable as duties of customs if the goods had been landed in the first instance at some point in either of the aforesaid colonies, to the extent that the duty collected on the said goods under the South Australian tariff will admit." *The South Australia Register*, October 16, 1855.

<sup>56</sup> *Ibid.*

<sup>57</sup> Speech of Mr. W. McLeay in the Legislative Council, New South Wales. *The Sydney Morning Herald*, August 11, 1855.

patched a special commissioner to the Murray to ascertain how the duties might best be collected. He seized a large quantity of goods on the ground of non-payment of duty.<sup>58</sup> The war of tariffs had begun.<sup>59</sup> The border settlers suddenly found themselves not only involved in, but the chief victims of, a commercial war in which they had no interest and to which they were most strongly opposed. The inhabitants of the Riverina district were especially hard hit. The obstruction of the natural course of trade with Melbourne was perhaps the least hardship. Even more annoying was the burden of double taxation on all dutiable goods imported from abroad via Victoria. On landing at Melbourne the goods were made to pay tribute to the Victorian treasury even though destined for New South Wales, and upon crossing the border into New South Wales, they were forced to pass the customs house of the mother colony.

Mr. MacLeay at once took steps to call the attention of the Council to the grievances of his constituents, especially in the matter of paying double duties.<sup>60</sup> But the reply of the Collector of Customs<sup>61</sup> held out little promise of a speedy settlement of the embroglio. He expressed the hope that an arrangement might be made with Victoria to avoid the payment of double duties, but in the meanwhile he maintained the revenue of the colony must be protected. The inhabitants of the Riverina must either procure their goods from another source than Melbourne or else suffer the consequences in the form of double taxation.

The Victorian government could not permit these measures to pass unnoticed. In a communication to the Chief Secretary, Mr. Childers pointed out<sup>62</sup> that the action of New South Wales was seriously interfering with the trade between Melbourne and the Murrumbidgee district and that this policy, if long maintained, would occasion much expense and trouble to both colonies. Victoria must either be prepared to meet her at every point or make some arrangement by which New South Wales would agree to abandon her border customs. In order to preserve the trade of the Murrumbidgee district some provision must be made for "permitting dutiable goods to be transported to the boundary under bond or by allowing drawbacks on the Murray on all such goods or in my opinion the preferable course, by making arrangements with New South Wales for trade in the interior."

But the question of free or restricted trade across the Murray could not

<sup>58</sup> Speech of Mr. Childers in the Legislative Assembly, Victoria, December 19, 1856. *The Victoria Hansard*, 1856-7, vol. 1:181.

<sup>59</sup> The action of the government of New South Wales, was, according to Mr. Childers, very "short sighted," as the course of trade was at this time not from Melbourne to Albury but from Sydney to Beechworth.

<sup>60</sup> *The Sydney Morning Herald*, November 24, 1854.

<sup>61</sup> Colonel George N. Gibbes.

<sup>62</sup> February 16, 1855. Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1193.

be settled by itself; it was inextricably bound up with the problem of traffic along the Murray. The interests of all three colonies were involved, for they all shared in the Murray trade. The traffic, like the waters of the river, was open to all. The trade of the inland country would not respect border lines. A cargo that was slowly making its way up the irregular course of the Murray might be destined to pass from colony to colony several times in search of the most favorable market before reaching its final destination. An agreement between any two colonies to the exclusion of the third, Mr. Childers concluded, could not effect a satisfactory solution of the problem.<sup>63</sup>

The whole question of border commercial relations came under review in a report of the customs board of enquiry<sup>64</sup> for the Victorian government. The report declared that a policy of internal free trade would be impolitic and unjust inasmuch as it would favor the border district at the expense of the remainder of the colony. It recommended that drawbacks be allowed on foreign goods passing through Victoria on the way to New South Wales. In respect to traffic along the Murray, the report further suggested that on goods imported from South Australia, duties should be collected according to the Victorian tariff rather than according to that of South Australia.

Mr. Childers, however, showed little respect for the report of the Board. The first recommendation, he pointed out,<sup>65</sup> was manifestly illegal as under the existing law drawbacks could not be granted. The second suggestion was equally impracticable since it would violate the express terms of the recent agreement with South Australia, and the latter would never consent to the substitution of the Victorian tariff for her own. The most satisfactory settlement, he again urged, would be the reciprocal adoption of the policy of internal free trade. But the demands of the Melbourne importers for the grant of drawbacks proved too strong for the legal objections of the Collector of Customs. The government decided to waive the letter of the law in favor of the Riverina trade and to allow drawbacks on foreign goods exported across the Murray.

In the meantime, the Collector of Customs at Sydney had suggested<sup>66</sup> to his government that an arrangement should be entered into with Victoria similar to that proposed by South Australia, by which foreign produce brought into New South Wales by way of Victoria should be exempt from the payment of double duties. The government approved of the suggestion and shortly afterwards forwarded it to the Colonial Secretary of Victoria for favorable consideration.<sup>67</sup>

<sup>63</sup> February 16, 1855. Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1193.

<sup>64</sup> *Ibid.*, 1194.

<sup>65</sup> *Ibid.*, 1195. April 27, 1855.

<sup>66</sup> *Ibid.*, 1196. March 15, 1855.

<sup>67</sup> *Ibid.*, 1196. May 7, 1855.



A few months later, the hardships of the border settlers were again brought to the attention of the legislative council by Mr. MacLeay.<sup>68</sup> The position of the Riverina settlers, he explained, had been materially bettered by the recent action of the Victorian government in permitting drawbacks on foreign goods crossing the border into New South Wales. Thanks to the liberal policy of Victoria his constituents were no longer obliged to pay double duties, though they were still exposed to the vexatious system of retaliatory customs on both sides of the boundary. He strongly urged upon the government that an arrangement should be made with Victoria for the abolition of border customs. The existing policy was a failure both from a fiscal and economic standpoint for it was encouraging smuggling and retarding the settlement of the border country.<sup>69</sup>

The government, however, was not prepared to give a definite answer. The Victorian executive had not yet replied to the recent proposals of New South Wales, nor had any arrangement been concluded with South Australia for the regulation of traffic along the Murray. In the absence of a general understanding upon these questions, the Colonial Secretary<sup>70</sup> declared, it would be injurious to the interests of the colony to neglect to collect the duties to which the colony was justly entitled. The speech of the Solicitor General<sup>71</sup> was even less encouraging. He defended the erection of border customs houses on both economic and fiscal grounds.<sup>72</sup> If New South Wales did not collect her duties along and across the Murray, the merchants of Adelaide and Melbourne would monopolize the trade and pocket the revenue of the colony, since it would not be practicable or convenient for the Riverina settlers to import their goods by the long overland journey from Sydney. There ought to be a union of the colonies to deal with questions of this nature; but so long as there was no common legislature to lay down a uniform tariff, he apprehended that there would be considerable difficulty in reaching a satisfactory settlement of border questions. At any rate, no settlement could be effected by correspondence alone. The legislatures of the respective colonies must needs pass local acts to make any arrangement operative. The most that the government could do would be to pass a local act authorizing a settlement, and then request the other colonies to follow suit.

Not long after,<sup>73</sup> Mr. Childers again came forward with a dual proposi-

<sup>68</sup> *The Sydney Morning Herald*, August 11, 1855.

<sup>69</sup> These views were strongly supported by Mr. Flood. It would, he declared, "be as sensible to establish customs houses within the colony as to maintain the one at Albury."

<sup>70</sup> E. Deas Thompson had gone to England to promote the passage through parliament of the new constitution. Meantime Mr. C. D. Riddell was acting colonial secretary.

<sup>71</sup> Wm. Montagu Manning, solicitor general, New South Wales, 1849-1856.

<sup>72</sup> *The Sydney Morning Herald*, August 11, 1855.

<sup>73</sup> September 7, 1855.

tion for the settlement of the whole border duties question. He suggested<sup>74</sup> that the governments of New South Wales and Victoria should agree to abandon their customs establishments and that South Australia should be authorized to collect the duties on Murray-borne products for the other two colonies, the proceeds to be equally divided between them. The government approved the suggestion and duly forwarded a copy of the Report to the Sydney executive with a request for favorable consideration. But before this communication reached its destination somewhat similar steps had been taken by the government of New South Wales with a view to the settlement of the controversy.

The executive of New South Wales had experienced a change of heart. It had apparently come to realize that intercolonial protective tariffs did not pay. As a revision of the tariff was pending, the moment seemed opportune for opening up negotiations with Victoria for the abolition of border customs. In a dispatch of September 12, 1855, to the Chief Secretary of Victoria, the Governor General deplored<sup>75</sup> the inconveniences which the existing customs establishments were inflicting on the commerce of the two colonies. He suggested<sup>76</sup> that an agreement should be entered into for the abolition of all duties except on the seaboard.<sup>77</sup> In order to meet the difficulty which might otherwise arise from the lower scale of duties in New South Wales on several articles of general import, the government of New South Wales proposed to assimilate the tariffs of the two colonies and was prepared to submit to the local legislature the adoption of the Victorian tariff save for a trifling exception in the duty on sugar and to leave future modifications in the tariff schedules to be discussed and formulated by the two governments in concert. He sincerely hoped that the evils of internal customs which had wrought such havoc in Germany would not be reproduced in Australia.

The same day the Governor General sent a message to the legislative council recommending a modified scale of duties as a means of assimilating the tariffs of New South Wales and Victoria. In presenting the tariff, the Colonial Treasurer<sup>78</sup> explained that the proposed alteration in the customs schedule arose out of the difference in the tariffs of the two colonies.<sup>79</sup> It was a great pity that at the time of the separation of Port Philip from

<sup>74</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1855-56, vol. 1:1197.

South Australia, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1, no. 361, p. 3.

<sup>75</sup> Dispatch of the Acting Colonial Secretary, C. D. Riddell, to the Chief Secretary of Victoria. New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, 26.

Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1198.

<sup>76</sup> Sir Wm. Denison made this proposal without previous legislative sanction or approval.

New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, 32.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:703.

<sup>77</sup> *Official History of New South Wales*, 249.

<sup>78</sup> Hon. F. L. S. Merewether was acting colonial treasurer at this time.

<sup>79</sup> *The Sydney Morning Herald*, September 13, 1855.

the mother colony, some provision had not been inserted in the Constitution Act to regulate the equalization of their respective tariffs.<sup>80</sup> The government was anxious to neutralize the consequent evil of divergent tariffs and he hoped that Victoria would agree to coöperate with New South Wales. The German states had entered into a zollverein by which the customs receipts were divided among them in proportion to population. "It might be necessary hereafter for these two colonies in conjunction with South Australia to join in some such scheme as that, but at present we were not ripe for it nor did it appear to be immediately necessary." No great injury, he argued, would result from the abolition of border customs as the duties could still be collected at the seaboard. But such a scheme could not be carried out without the adoption of a uniform customs schedule. This ought not to be difficult to effect as the Victorian tariff was based on the same liberal principles as that of New South Wales, though the dutiable list was smaller and the rates somewhat higher on the same articles than was the case in New South Wales. The proposed revision of the tariff, he concluded, possessed another advantage in that it would bring additional revenue into the treasury.

Several of the members of the Council objected to the proposed increase of duties on some of the necessities of life.<sup>81</sup> Messrs. Darvall<sup>82</sup> and Martin<sup>83</sup> were particularly severe in arraigning the government for adopting the heretofore discredited policy of a neighboring colony. The border customs difficulty was not a sufficient reason for an alteration of the tariff, nor was it at all likely that Victoria would agree to follow the lead of New South Wales in amending her tariff. There was indeed a strong suspicion outside, as well as within the Council, that the proposed assimilation of tariffs was a mere cloak to cover an unjustifiable increase in the tariff. The executive succeeded in carrying its bill,<sup>84</sup> but only after several modifications had been made in the tariff schedule.<sup>85</sup> The final result was a rough approximation to the tariff of Victoria, though falling far short of the proposed assimilation. A majority of the council had shown, however, a desire to promote greater freedom of intercolonial trade.

<sup>80</sup> A similar sentiment was expressed by the Governor in his message to the council. "A system," he continued, "had thus been commenced which if allowed to continue would not only be productive of great annoyance to those residing near the frontier but would create a system of smuggling most injurious to the character and morals of the population."

*Official History of New South Wales*, 249.

<sup>81</sup> *The Sydney Morning Herald*, September 15, 1855.

<sup>82</sup> John Bayley Darvall, subsequently attorney general of New South Wales.

<sup>83</sup> James Martin, subsequently several times premier of New South Wales.

Mennell, *Dictionary of Australasian Biography*, 314.

<sup>84</sup> The resolutions were adopted by 21 to 10. *Official History of New South Wales*, 250.

<sup>85</sup> *The Sydney Morning Herald* bitterly assailed the policy of the government "in nailing its colours to the mast under Hotham's auspices." It maintained that the assimilation of tariffs was a mere pretence "as the differences in duties were as permanent as ever." Compare *The South Australia Register*, October 16, 1855.

The Victorian government readily concurred in the proposal of the Governor General.<sup>86</sup> The two executives had at last reached a common basis of agreement. The chief objection of Victoria had been removed by the announcement of the intent of the government of New South Wales to bring its tariff up to the level of that of Victoria. A complete assimilation of tariffs appeared to be at hand. The agreement was not entirely satisfactory to either party and could not be in the absence of reliable statistics as to the balance of trade between the two colonies. No attempt was made to estimate the loss of revenue on either side. The amount was manifestly small and the two governments agreed it was not worth fighting about.<sup>87</sup> Even a small fiscal loss by one or the other party was considered less injurious than the continuance of border warfare.<sup>88</sup>

As the border duties question was bound up with the question of the Murray River duties, the Victorian government suggested that the Murray River problem should be disposed of at the same time, so as to free the internal trade of the colonies from all tariff restrictions. To this end it proposed<sup>89</sup> that South Australia should be authorized by the other two colonies to collect according to her own tariff all duties of customs on Murray-borne traffic intended for consumption in New South Wales and Victoria and that the proceeds should be equally divided between Victoria and New South Wales. Although this proposition involved a material modification of its policy in respect to the Murray River trade, inasmuch as it provided for the adoption of the entire South Australian tariff on the Murray instead of its partial acceptance in respect only to goods which were dutiable according to the tariff of New South Wales,<sup>90</sup> the government of New South Wales decided to give way and fall in line with the more liberal program of its neighbors. The advantage of securing uniformity of tariff administration on the Murray, it was felt, would more than offset the modification of the customs schedule. The existing customs arrangement between Victoria and South Australia occasioned no difficulty, inasmuch as it had been recognized from the first by both parties as a mere temporary expedient or *modus vivendi* until such time as New South Wales should consent to become a party to a general settlement of the question of internal tariffs. An agreement was accordingly drawn up accepting the South Australian tariff as the common tariff for the Murray.<sup>91</sup>

<sup>86</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1198.

<sup>87</sup> *The South Australia Register*, October 27, 1855.

<sup>88</sup> *The Victoria Hansard*, 1856-7, vol. 1:182.

<sup>89</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1198.

<sup>90</sup> The Victorian government, according to the Colonial Treasurer of South Australia, refused to accede to the proposition of New South Wales for the collection of duties on goods only which were liable to duty under the tariff of New South Wales.

*The South Australia Register*, January 25, 1856.

<sup>91</sup> New South Wales, 19, Victoria, no. 21.

See also South Australia, 1855-6, no. 6.

Although the agreement was not all that the government of South Australia would have desired, Lieutenant Governor MacDonnell<sup>92</sup> wisely concluded that it was better to accept the Victorian proposition than to fight for better terms and still further disorganize the Riverina trade by perpetuating an unsettled condition of affairs. He was convinced<sup>93</sup> that the trade of South Australia would gain more from the freedom of commercial intercourse along the Murray than the Treasury would lose from assuming the burden of collecting the duties of the other colonies. South Australia was not seeking her own selfish interests in this matter, nor did she desire to appropriate any portion "of the revenues of the sister colonies." At the same time he advanced the claim that South Australia should be allowed at least five per cent of the amount collected as reimbursement for the cost of the services she was performing on behalf of her partners. He did not demand this sum as a right or seek to exact it as a condition of the agreement. He left the matter entirely to the generosity and sense of justice of the sister colonies. Should the other governments be unwilling to make such payment, South Australia would be prepared to collect the duties without compensation. The matter was speedily adjusted as the governments of New South Wales and Victoria readily acknowledged the justice of the South Australian claim by allowing her five per cent of the duties by way of compensation.<sup>94</sup>

As the Murray River agreement provided for a different tariff schedule from that which was laid down in the general customs act, the government of New South Wales introduced a bill to legalize the collection of duties according to the South Australian tariff and to indemnify the officers of the government for the action they had already taken under the terms of the recent understanding. On the second reading of the bill,<sup>95</sup> the Colonial Secretary heartily commended the satisfactory manner in which the arrangement had been working and urged the advantage of continuing its operation in the interests of commerce and the border settlers.<sup>96</sup> The bill was agreed to without further discussion and in due course was placed upon the statute book.<sup>97</sup>

The governments of New South Wales and Victoria likewise took steps to carry out their part of the agreement in respect to trade across the Murray.<sup>98</sup> On October 29, 1855, they issued a common proclamation to the

<sup>92</sup> Richard Graves MacDonnell, lieutenant governor of South Australia, 1855-62.

<sup>93</sup> South Australia, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:5.

<sup>94</sup> *Ibid.*

Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1198.

<sup>95</sup> October 10, 1855.

<sup>96</sup> *The Sydney Morning Herald*, October 11, 1855.

<sup>97</sup> The Murray River Customs Duties Act. New South Wales, 1855, 19 Victoria, no. 21. *Official History of New South Wales*, 253.

<sup>98</sup> South Australia, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1, no. 361, p. 3.

effect (1) "that from and after November 1, 1885, no import duties would be levied on goods brought across the river Murray; (2) that the proceeds of the collection by the government of South Australia in respect to dutiable goods brought up the river Murray for consumption would be equally divided between Victoria and New South Wales."

This convention attempted to dispose of the whole subject of Murray River duties. It contained two separate and distinct agreements which, though closely connected in fact and even confused during the course of the negotiations, were nevertheless essentially different in purpose and character. To the latter arrangement in respect to traffic across the Murray, only New South Wales and Victoria were parties. The object in this case was to relieve the border settlers from the burden and annoyance of border customs and to restore the former happy state of unrestricted free trade across the boundary. No attempt was made to estimate the fiscal effect of this measure. The benefit of commercial freedom, it was felt, would more than outweigh all other considerations.<sup>99</sup> The revenues of the two colonies would indirectly gain more from the stimulus to intercolonial trade than they would lose from the abolition of border duties.

The objects of the Murray River arrangement to which South Australia was made a party were somewhat different. On the part of South Australia the motive was undoubtedly commercial advantage; but with New South Wales and Victoria the primary object was fiscal rather than economic. They desired indeed to serve the convenience of the Riverina settlers and to promote freedom of trade to and from South Australia. But they were even more interested in protecting the revenues of the colonies from illicit importations along the Murray. The result, however, was none the less conducive to the development of trade along the Murray.<sup>100</sup> When once an article had been entered at the customs house at Goolwa it was free to pass up the Murray at pleasure. The trade along the Murray was placed on the same unrestricted footing as that across the river.

The two parts of the convention were complementary to one another. Either provision of the agreement without the other would have afforded but a partial and imperfect solution of the border difficulty. Together they wiped out all internal commercial boundaries. They provided for a partial measure of intercolonial free trade.<sup>101</sup> A cordon of customs houses guarded the sea coasts of the three colonies, but within these tariff walls intercolonial trade was as free as between the municipalities of any colony.

But notwithstanding these manifest advantages, the convention was far from effecting a satisfactory settlement of the border question. It was

<sup>99</sup> *The South Australia Register*, October 27, 1855.

<sup>100</sup> Dispatch of Chief Secretary Haines of Victoria to the Colonial Secretary, South Australia. Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1202.

<sup>101</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 101.

open to the grave objection of incorporating a foreign and conflicting tariff in the fiscal systems of New South Wales and Victoria. Both colonies were now divided for fiscal purposes into two parts, the seaboard population being subject to the general customs acts of the respective colonies; the border settlers, on the other hand, paying duties according to the tariff of South Australia. This arrangement endangered the fiscal unity and independence of both colonies; it complicated their domestic economy and inter-colonial relations. The interests of the settlers on both sides of the Murray were bound up for the time being with the fiscal policy of South Australia. There was the danger that their commercial interests might not only conflict with the fiscal and economic interests of their fellow citizens on the seaboard but might also be incompatible with their political allegiance. In short, the commercial freedom of the Murray was purchased at the price of the fiscal and commercial disintegration of New South Wales and Victoria. Such an arrangement necessarily carried within itself the elements of discord and dissolution.

The convention had not yet been ratified before steps were taken to modify the terms of the agreement.<sup>102</sup> The Adelaide executive was desirous of placing the settlement on a more permanent basis. To this end it proposed<sup>103</sup> that the governor of South Australia should not only have authority to levy duties according to the convention, but ought also to be authorized to levy such duties on goods destined for New South Wales or Victoria as the respective governments of those colonies "may from time to time signify their wish to impose."<sup>104</sup> The government distinctly disavowed any intention or desire to fetter the governments of the neighboring colonies as to the nature or amount of duties they might see fit to authorize the officials of South Australia to collect. Such a measure would not only provide for future tariff modifications, but in case of the adoption of a uniform scale of duties for the Murray, would also enable goods to be sent up the river more freely for speculative purposes in search of the best market.<sup>105</sup>

This proposal, however, was advanced at too late a stage in the negotiations to affect the terms of the convention. Moreover, the Victorian government was not in sympathy with any further extension of the agency of South Australia. The Victorian executive, Mr. Haines declared,<sup>106</sup> had agreed to the acceptance of the South Australian rates of duties on Murray-borne goods in order to promote the interest and convenience of commercial intercourse rather than from any approval of the character of the South

<sup>102</sup> October 11, 1855.

<sup>103</sup> South Australia, *Notes and Proceedings of the Legislative Council*, 1855-6, vol. 1, no. 36, p. 2.

<sup>104</sup> In consideration of the advantage of this proposal South Australia offered to pay over the whole of the customs receipts without charge for collection.

<sup>105</sup> *The South Australia Register*, October 16, 1855.

<sup>106</sup> Victoria, *Notes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1202.

Australian tariff. In respect to the broader policy of an Australian zollverein, the Lieutenant Governor was of the opinion that although many advantages would accrue from a uniform tariff, nevertheless the peculiar circumstances of each colony must regulate the measure of its taxation and consequently the nature of its tariff. In short, the Victorian government refused to recognize the convention as a possible basis for a determinate policy of fiscal coöperation or as a first installment of a general customs system. It declined to extend the principle of customs uniformity beyond the necessities of the Murray River traffic.

Mr. Finniss,<sup>107</sup> colonial secretary of South Australia, heartily concurred<sup>108</sup> in the opinion that each colony must regulate its tariff according to its own peculiar circumstances. He again disavowed any intent on the part of South Australia to limit the fiscal freedom of the other colonies. The only object the government had in view was to lend additional security and adaptability to the existing convention. The recent abolition of border customs would, it was admitted, render the proposed arrangement largely unnecessary, but such a provision might prove highly advantageous as a *modus vivendi* in case that the legislature of either of the sister colonies should make a material alteration in its tariff. It would avoid the necessity of otherwise having to frame a new convention. However, in view of the unfavorable attitude of the Victorian executive, the South Australian government decided to let the matter drop for the time being.

Meantime the South Australian executive had brought the matter before the legislature.<sup>109</sup> The Lieutenant Governor, at the opening of the legislative council,<sup>110</sup> referred with much satisfaction to the recent arrangement by which the trading community would be freed from many vexatious fiscal restrictions and from which a great expansion of commerce might be anticipated by all the colonies, especially by South Australia as the guardian of the mouth of the Murray. In furtherance of this arrangement a bill would be laid before the Council which would not merely legalize the Murray convention but would give to it "an even more comprehensive and permanent character by enabling this colony under all circumstances to act for the other two as their agent in collecting Murray revenue duties irrespective of changes in the existing tariff."

In the debate on the address in reply, several of the members of the Council expressed their satisfaction at the settlement of the Murray River question.<sup>111</sup> But this satisfaction was not shared by the mercantile community out of doors. The Adelaide chamber of commerce took the matter

<sup>107</sup> Hon. T. F. Finniss, colonial secretary of South Australia from 1852-54 and 1855-57.

<sup>108</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1855-6, vol. 1:1203.

<sup>109</sup> November 1, 1855.

<sup>110</sup> South Australia, *Votes and Proceedings of the legislative Council*, 1855-6, vol. 1:5.

<sup>111</sup> *The South Australia Register*, November 3, 1855.



up and presented a petition to the government to the effect that commodities which were not chargeable under the customs laws of New South Wales and Victoria should be allowed to pass up the Murray free of duty. Such a provision would have been greatly to the advantage of the South Australian importers in their fight for the Riverina trade by relieving them of the payment of the general ad valorem duties on goods shipped up the Murray.

The matter came to an issue soon after<sup>112</sup> on the introduction of the promised bill in respect to the Murray River duties. By the first and most important clause of the bill it was provided<sup>113</sup> that: "It shall be lawful for the Governor by warrant under his hand to authorize the payment to the governments of New South Wales and Victoria, respectively, in such proportions as may be agreed upon of all duties which have been or which at any time hereafter may be received or collected in this province in respect of any goods which shall have been imported by way of the said river Murray into the said colonies of New South Wales and Victoria, or either of them, and such warrant and the receipt of any person authorized by the Governor-in-Chief of the said colonies respectively to receive the same, shall be a sufficient discharge to the person paying any sums mentioned in such warrant and receipt." The motion was at once met by an amendment from Mr. Younghusband<sup>114</sup> to the effect that duties should be collected only on goods which were "liable to duty in the colonies of New South Wales and Victoria respectively." An animated two days' debate ensued in which the most conflicting opinions were expressed as to the intentions of the respective governments in drawing up the recent agreement. The real question at issue was whether duties should be levied according to the South Australian tariff on all goods going up the Murray, or, as was maintained by the opposition, on such goods only as were dutiable according to the tariffs of the other colonies.

On the part of the government it was contended<sup>115</sup> that the attitude of the South Australian executive throughout the negotiations had been clear and consistent in maintaining that duties should be levied on the whole river traffic according to the local tariff. The government of New South Wales had at first adopted a different interpretation but had later modified its views so as to bring them into accordance with those of Victoria.<sup>116</sup> South Australia had become a party to the convention and was under obligations to pay over the whole amount of the duties collected. The government could

<sup>112</sup> January 24, 1856.

<sup>113</sup> *The South Australia Register*, January 25, 1856.

<sup>114</sup> Wm. Younghusband, subsequently chief secretary of South Australia from 1857 to 1860. Menzell, *Dictionary of Australasian Biography*, 527.

<sup>115</sup> Speech of the Advocate General.

*The South Australia Register*, January 25, 1856.

<sup>116</sup> Speech of the Colonial Secretary. *Ibid.*

not accede to the petition of the Adelaide chamber of commerce without a breach of faith. It could not dictate to the sister colonies what tariffs they should adopt; and yet that was what the opposition and a portion of the mercantile community were demanding. There was a general impression, the Colonial Treasurer declared,<sup>117</sup> that the local exchequer would suffer from the convention, and that the amount collected under the South Australian tariff would be considerably greater than under the tariffs of the sister colonies. But this, he maintained, was a mistake since on several articles of general consumption the customs schedules in New South Wales and Victoria were higher than in South Australia. In fact, unless the local duties were applied to all Murray River traffic the revenues of the sister colonies would materially suffer; and this it was one of the objects of the convention to avoid by requiring the full amount of the collections under the South Australian tariff to be paid over whether the goods imported into the Riverina were or were not chargeable under the tariffs of New South Wales and Victoria. The convention certainly ought to be ratified. It had already proven most helpful to the Murray River trade. And the development of that trade, he foolishly prophesied, could scarcely fail to discourage the efforts of the citizens of Melbourne to construct a railroad to the upper waters of the Murray.

Mr. Younghusband, the champion of the mercantile interests, took a deep personal interest in the question, as he was actively engaged in the Riverina trade. It was doubtful, he contended,<sup>118</sup> from the evidence of the Collector of Customs as to whether South Australia could legally collect duties on goods other than those which were levied under the tariff of New South Wales and Victoria. The other colonies, moreover, had preferred the very arrangement he now proposed by way of amendment. The convention ought not to be ratified, as it was opposed to the commercial interests of South Australia and threw an additional expense on the local treasury. Several other speakers<sup>119</sup> joined in condemning the government for its ineptitude in the conduct of the negotiations. None of them, however, was able to throw much light upon the confused muddle, though they were all sure in their own minds as to the correct interpretation of the agreement. It was quite enough, in the opinion of several members of the Council,<sup>120</sup> for South Australia to bear the cost of collecting the duties for the sister colonies without being called upon to pay over the full amount collected under the local customs act. The duties collected on goods not chargeable under the tariffs of New South Wales and Victoria ought, in

<sup>117</sup> *The South Australia Register*, February 1, 1856.

<sup>118</sup> *Ibid.*, January 25, 1856.

<sup>119</sup> Messrs. Hughes, Blyth, and Baker.

<sup>120</sup> Messrs. Foster and Baker.

their judgment, to be returned to the traders by way of a drawback or to be retained by the local exchequer to meet the cost of collection. As the whole burden of administering the Murray River trade was to fall upon South Australia it was only fair, they mistakenly contended, that she should enjoy what little profit was to be gained through the difference in the tariffs of the colonies.<sup>121</sup> Only a few of the members were far-seeing enough to realize that the real gain to South Australia would accrue from the expansion of intercolonial trade rather than from an incidental gain to the local exchequer. Mr. Blyth alone ventured to come out boldly in favor of a uniform tariff for the Australias.<sup>122</sup>

The executive was not sure of its own position. It was discredited by its own bungling. It knew that it could not command the support of the Council and that its policy was unpopular among the commercial community out of doors. In the face of this popular opposition, the government made but a feeble pretense of defending the bill against the criticism of the members. At last it weakly gave way and allowed the amendment to be carried without a division.<sup>123</sup>

On consideration of the second clause of the bill authorizing the governor with the consent of the executive council to issue regulations for the Riverina trade, the Colonial Treasurer moved an amendment to permit the bonding of goods through South Australia to the upper Murray. The object of the amendment was to extend the same liberality of treatment to importations into the Riverina via the Murray as was given by way of Melbourne. The amendment, however, was opposed by several members<sup>124</sup> on various grounds: that it would lead to the appointment of customs house officers on the river; that it would encourage smuggling; and that South Australia should not be called upon to provide revenue officers for the other colonies, especially in view of the fact that Victoria, according to Captain Hart,<sup>125</sup> was enjoying the commercial advantage of free and unrestricted trade with the southeastern district of South Australia without making any compensation for the same. But the real ground of opposition was the fear that the direct importation of goods from abroad under bond might deprive the Adelaide traders of their expected profits as middlemen. Notwithstanding these criticisms, the clause was permitted to pass without further challenge.<sup>126</sup>

By the third clause, the government of South Australia was author-

<sup>121</sup> The governments of New South Wales and Victoria had agreed, however, to reimburse South Australia for the cost of collection.

<sup>122</sup> *The South Australia Register*, February 1, 1856.

<sup>123</sup> *Ibid.*

<sup>124</sup> Messrs. Youngbusband, Hart, and Baker.

<sup>125</sup> John Hart, subsequently three times premier of South Australia.

Mennell, *Dictionary of Australasian Biography*, 218.

<sup>126</sup> *The South Australia Register*, February 1, 1856.

ized<sup>127</sup> to collect the Murray River duties for the other colonies either according to the South Australian tariff or according to that of the other colonies, whichever might be agreed upon. This clause, the government claimed,<sup>128</sup> was essential to the bill since it was not improbable that the other colonies might modify their tariffs, in which case, without some such provision, South Australia would lose the advantage now conceded to her by the Murray River convention. Captain Hart, however, moved an amendment to strike out the clause. The provision was primarily attacked on the ground that it restricted the fiscal freedom of South Australia by binding her to act as the agent of the other colonies whatever alterations the latter might make in their tariffs and regardless of the effect of such alterations upon the fiscal policy of South Australia. It was further objected<sup>129</sup> that the clause endowed the executive with a dangerous power to issue orders in council to confirm any necessary alterations in the convention consequent upon modifications in the tariffs of the neighboring colonies. The opposition again proved too strong for the executive. The clause was decisively rejected, all the elective and nominated members of the Council voting against it.<sup>130</sup>

In amending the bill, the majority of the members of the Council were much more concerned about the promotion of trade up the Murray than actuated by a desire to meet the views, or supposed views, of the other colonies in the matter. It was convenient to assume that the correct interpretation of the agreement was the one most favorable to South Australian trade; and in this case the course of negotiations lent considerable support to that view. But the matter at heart was one of pounds, shillings and pence. The Council was looking out for the future commercial advantage of the traders of South Australia.

The bill as finally adopted provided<sup>131</sup> that: "It shall be lawful for the Governor, by warrant under his hand, to authorize the payment to the Governments of New South Wales and Victoria respectively, in such proportion as may be agreed upon, of all duties which have been or which at any time hereafter may be received or collected in this Province, in respect of any goods liable to duty in the colonies of New South Wales and Victoria respectively, which shall have been imported by way of the said river Murray into the said colonies of New South Wales and Victoria, or either of them; and such warrant, and the receipt of any person authorized by the Governor-in-Chief of the said colonies respectively to receive the same, shall be a sufficient discharge to the person paying any sums men-

<sup>127</sup> This clause was intended to carry out the pet project of the lieutenant governor.

<sup>128</sup> *The South Australia Register*, February 1, 1856.

<sup>129</sup> Speech of Mr. Angas.

<sup>130</sup> *The South Australia Register*, February 1, 1856.

<sup>131</sup> See appendix A for the entire Act.

tioned in such warrant and receipt." The Governor and executive council were authorized to make the necessary rules and regulations for putting the bill into operation.<sup>132</sup>

The Border Duties convention met with the warmest approval of Mr. Labouchere, secretary of state for the colonies.<sup>133</sup> The Board of Trade likewise joined in expressing its satisfaction at the abolition of customs duties on the Murray.<sup>134</sup> The establishment of a line of internal customs duties could not fail, in the opinion of the Board, to prove a great inconvenience and hindrance to the progress of the colonies. But they felt that "so long as the tariffs of the several provinces imposed different rates of duties on imports, it would be impossible to permit an uninterrupted intercourse across the frontiers." They clearly perceived that the adoption of a uniform customs system was a condition precedent to a permanent settlement of the fiscal relations of the colonies on the mainland. But unfortunately the local legislatures had not the same breadth of view as the much despised bureaucracy of the home land. The gentle hint of the Board of Trade was quite neglected.

<sup>132</sup> South Australia, The Murray River Customs Act, 1855-6, no. 6. "An Act to regulate the collection and distribution of duties upon goods intended for consumption in the colonies of New South Wales and Victoria, carried by way of the river Murray." See appendix A.

Victoria, *Votes and Proceedings of the Legislative Council*, 1856-7, vol. 4:221.

<sup>133</sup> *Ibid.*, 331.

<sup>134</sup> *Ibid.*

## CHAPTER VI

### BORDER CUSTOMS DUTIES

The Border convention had been running but a few months before trouble broke out again. The conclusion of the agreement had been followed by a rapid expansion of South Australia traffic with the Riverina and the gold fields of Victoria. The jealousy of the Melbourne merchants was quickly aroused at this invasion of their own peculiar territory.<sup>1</sup> Measures were already under way to connect Melbourne by rail with the Murray. In a report<sup>2</sup> on the Riverina district, Mr. Hodgkinson had emphasized the advantages of a railroad to Echuca and had expressed the opinion that navigation on the upper waters of the Murray would be of much greater importance to Victoria than to either New South Wales or South Australia, for upon the completion of the railroad to the Murray, goods could be delivered at river ports within a much shorter space of time than via Adelaide and at rates which would defy the competition of South Australia merchants.

The business men of Melbourne were not willing to allow their Adelaide rivals even a temporary triumph but at once took steps to restrict the privileges of their neighbors, if not to drive them out of the field.<sup>3</sup> They had disliked the convention from the first, inasmuch as it had placed them at a disadvantage in competing with their aggressive neighbors. The duties on several articles of general consumption were considerably lower under the South Australian tariff than under that of Victoria; and in respect to all these commodities the Adelaide importers were in a privileged position. The matter was taken up by the Melbourne chamber of commerce which proposed to overcome the existing discrimination by calling upon South Australia to raise her tariff to the level of that of Victoria. In other words, the Adelaide executive was to be invited to impose heavier taxation upon its commerce for the purpose of discouraging the traffic of its citizens with the upper Murray. A sub-committee of the chamber of commerce waited on the Commissioner of Trade and Customs to impress upon him the injury which was being inflicted on the trade and revenue of the colony by the introduction of merchandise via the Murray at lower rates of duties.<sup>4</sup> The representatives of the Chamber were favorably received by

<sup>1</sup> *Victoria Hansard*, 1856-7, vol. 1:182.

<sup>2</sup> April 1, 1856. *Victoria, Votes and Proceedings of the Legislative Council*, 1856-7, vol. 4:301.

<sup>3</sup> *The Sydney Morning Herald*, September 6, 1856.

<sup>4</sup> *The South Australia Register*, July 22, 1856.

Mr. Childers who promised that the government would speedily take action to put an end to the existing discrimination, the serious effect of which had not been appreciated at the time of the adoption of the convention.<sup>5</sup>

Mr. Childers, as we have seen, had from the beginning been opposed to the proposition of applying the South Australian tariff to the Murray River trade. The rapid expansion of South Australian trade had served to confirm his unfavorable predictions. For some time past the matter had been engaging his attention. The representations of the Melbourne chamber of commerce lent powerful support to his demand for a revision of the agreement so as to place the trade of Victoria on an equality with that of South Australia. The existing convention, he claimed,<sup>6</sup> was of a purely temporary character and had only been accepted as less open to objection than any of the proposals of the neighboring governments. So long as the traffic upon the Murray had been small, no great objection could well have been raised to an arrangement which had undoubtedly given a stimulus to the trade of all the colonies. But now that the Riverina trade had assumed such proportions as to no longer require artificial aid there was no further need of admitting goods into northern Victoria via the Murray at a lower rate of duty than in other parts of the colony. The difference on many articles in the tariffs of Victoria and South Australia amounted to a practical bounty on South Australian trade. Some modifications of the agreement should be made without delay in order to safeguard the revenue and protect the commerce of Victoria. No objection, he thought, need be anticipated on the part of the South Australian executive inasmuch as the latter had recently proposed that the customs officers of South Australia should be authorized to collect such duties as the executives of New South Wales and Victoria should respectively impose. Nor was it at all probable that the government of New South Wales would offer any opposition to the substitution of the New South Wales tariff for that of South Australia in respect to articles intended for consumption in New South Wales. The Sydney executive ought, in his judgment, to be invited to join with Victoria in requesting the South Australian executive to collect duties according to the tariffs of New South Wales and Victoria on all articles on which the rates were the same in the two colonies. The memorandum of the Commissioner of Customs was approved by the Governor and Council and duly forwarded to the governments at Sydney and Adelaide for their consideration.<sup>7</sup>

The response of the Sydney executive was favorable though cautious.

<sup>5</sup> To aggravate further the difficulty between the two governments a dispute had arisen in regard to the importation of Chinese via the Murray. South Australia, *Notes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1, no. 30.

<sup>6</sup> Victoria, *Notes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:224.

<sup>7</sup> July 9, 1856. *Ibid.*

The government of New South Wales, the Colonial Secretary<sup>8</sup> explained,<sup>9</sup> was quite content with the existing arrangement but it was nevertheless desirous of meeting the views of the Victorian executive so far as its treaty obligations would permit. To this end, it had informed the South Australian executive of its willingness to concur in the proposition of Victoria on condition that the South Australian executive should first consent to the alteration of the convention and provided further that the proposed arrangement could be carried out without serious injury to the revenues of New South Wales and Victoria. The Colonial Secretary expressed grave doubt as to the fulfillment of the second condition inasmuch as the lower duties of South Australia on several leading articles of import would give rise to a contraband trade.

In short, the government of New South Wales wisely determined to live up to the terms of the convention with South Australia, but at the same time it diplomatically volunteered its good offices to arrange a more satisfactory agreement between the three colonies. To have rejected outright the overtures of the Victorian executive might have offended the susceptibilities of the latter and have endangered the Border convention between the two colonies. On the other hand, to have accepted the proposal of Victoria would have afforded the government of South Australia a just ground of complaint of violation of faith. There was, besides, no particular reason why New South Wales should take an active interest in bringing about an alteration of the existing arrangement which would be of no particular benefit to herself, however profitable it might be to Victoria. The revenue of New South Wales undoubtedly suffered some loss from the lower tariff of South Australia, but this loss was probably more than offset by the gain which accrued to the treasury from the equal division of the South Australian river duties.<sup>10</sup>

As the Adelaide executive was tardy in replying to the Victorian dispatch, and as it seemed probable from newspaper reports that it did not intend to accept the suggested modification of the convention, the Victorian government determined to bring matters to a decisive issue by calling upon South Australia to either accept or reject the Victorian proposition at once.<sup>11</sup> This peremptory demand was justified by the government on the ground that the revenue of the colony and the legitimate commerce of its citizens were suffering from the semi-illicit traffic in tobacco and certain other products which had sprung up under cover of the fortuitous difference in the tariffs of the two colonies on these particular articles. In truth the loss

<sup>8</sup> Stuart A. Donaldson, first premier of New South Wales under the new constitution.

<sup>9</sup> August 11, 1856. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:225.

<sup>10</sup> *The Sydney Morning Herald*, December 16, 1856.

<sup>11</sup> Speech of Mr. Childers in legislative assembly, December 19, 1856. *Victoria Hansard*, 1856-7, vol. 1:183.



of revenue was trifling when compared with the total revenue of the colony but the merchants of the capital were thoroughly alarmed at the threatening diversion of trade and practically forced the government to assert the fiscal independence of the colony.

The Adelaide executive was manifestly embarrassed at the new turn of affairs. It had but recently put forward the very proposition of Victoria but the proposal had been decisively rejected by the legislative council. The mercantile community out of doors looked upon the Victorian proposal as a skilfully devised scheme to commit the local executive to a policy which would check the development of South Australia trade with the gold fields and pastoral lands of the interior. South Australia, it was declared, was invited to become a party to its own undoing.<sup>12</sup> "If," said the *South Australia Register*, "the high taxation of Victoria is injurious to her trade, she should reduce her tariff to ours, not insist on changing our duties." The question was one for the determination of the Victorian legislature and not for South Australia.

The problem was a difficult one and the South Australian government hesitated to reply. The absence of the Governor and the negotiations with New South Wales in respect to an assimilation of tariffs afforded sufficient justification for delay.<sup>13</sup> But the request of the Victorian executive for an immediate answer put an end to further procrastination. The Colonial Secretary had been nettled by the peremptory attitude of Victoria and was not in the most amicable mood for friendly correspondence.<sup>14</sup> The delay of South Australia, he pointed out,<sup>15</sup> was due in large part to the failure of the Victorian executive to furnish the government of South Australia with copies of the correspondence with New South Wales so that the former might be in a position to form an opinion upon the proposed modification of the convention. The Victorian proposition, he contended, presented grave difficulties in the way of the collection of duties owing to the lower tariff of South Australia which would call for the appointment of a large staff of customs officials to prevent goods entered for local consumption from being subsequently forwarded up the Murray. The development of such a policy must be left to New South Wales and Victoria should they unfortunately agree to the adoption of a higher scale of duties for the Riverina trade. The government of South Australia, he concluded, did not feel that it could take action in the matter until after the first meeting of parliament under the new Constitution Act.

But the Adelaide executive was by no means indifferent to the force of the Victorian claims for a modification of the convention; and as an

<sup>12</sup> *The South Australia Register*, July 22, 1856.

<sup>13</sup> *Victoria Hansard*, 1856-7, vol. 1:182.

<sup>14</sup> The Victorian government had accused South Australia of neglecting to reply to its communication.

<sup>15</sup> November 26, 1856. *Victoria, Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:229.

earnest of its desire to adjust the legitimate grievance of Victoria, the speech of the Lieutenant Governor at the opening of the new parliament contained the announcement that the tobacco duties of the colony would be assimilated to those of Victoria.<sup>16</sup> It appeared at first as though the liberal policy of the government would commend itself to the citizens of Adelaide and Melbourne alike as affording the basis for a satisfactory settlement of the difficulty.<sup>17</sup> But the bill did not go far enough to suit Victoria. It was limited in its application and it failed to protect the revenue of Victoria from the danger of smuggling.<sup>18</sup> The Melbourne public would be satisfied with nothing less than an assimilation of the South Australian tariff to that of Victoria in respect to all river-borne goods on which there was a material difference in the customs schedules of the two colonies. But this the South Australian executive refused to concede. The pride of the colony had been touched by the apparently overbearing action of the Victorian government. Moreover, it would have been exceedingly difficult for the customs officials to have collected duties according to two different tariffs without exposing the revenues of both colonies to false entries and wholesale smuggling.<sup>19</sup> As a mark of its disapprobation, the South Australian executive withdrew its bill for an assimilation of the tobacco duties on Murray River goods.

At Melbourne, the independent spirit of the Adelaide executive was generally ascribed to the selfish interests of the trading community. The *Melbourne Argus* warned<sup>20</sup> the government of South Australia of the danger of a tariff war if it persisted in its untoward policy. The finances of Victoria, it declared, were in good shape for a fiscal struggle; and if South Australia did not accede to the reasonable requests of the Victorian government, the latter would not hesitate to alter the tariff in a way which would least please the traders of South Australia. It hoped, however, that resort to extreme measures of fiscal coercion would not be necessary. The most satisfactory solution of the difficulty would be found in an assimilation of the tariffs of the three colonies. "Doubtless the collection and division of the duties coming up the Murray would still be difficult but it would be diminished by a common tariff and one customs house could collect and divide the duties in the ratio of consumption in the several colonies." The general public, it concluded, were quite prepared to receive cordially any such proposal as the government might introduce for putting an end to the controversy with South Australia or for effecting a new border arrangement.

<sup>16</sup> *The South Australia Register*, November 29, 1856.

<sup>17</sup> *The Melbourne Argus*, November 18, 1856.

<sup>18</sup> *Ibid.*, December 4, 1856.

<sup>19</sup> *The Sydney Morning Herald*, December 16, 1856.

<sup>20</sup> *The Melbourne Argus*, December 4, 1856.

One of the paragraphs of the Governor's speech at the opening of the first parliament<sup>21</sup> of Victoria under the new constitution conveyed the announcement<sup>22</sup> that a proposal for an assimilation of tariffs had been addressed to the other colonies and that this government in conjunction with New South Wales had "called upon the Governor of South Australia to alter the arrangement under which dutiable goods were conveyed up the river Murray for consumption beyond the limits of that province." This part of the government's program, however, did not attract any notice in the debate upon the address in reply.<sup>23</sup>

Shortly afterwards,<sup>24</sup> Mr. Childers on behalf of the government, introduced<sup>25</sup> a resolution in respect to the Murray River trade: "(1) That from and after the first day of March next the arrangement now in force with reference to the introduction of goods subject to duty of customs from South Australia and New South Wales by and across the river Murray should cease and terminate; (2) that arrangements should be made with the government of New South Wales for the collection at the common frontier after the date aforesaid of duties on goods carried up the river Murray and for a free trade across the river Murray."

The existing agreement, he contended,<sup>26</sup> had only been accepted on condition that it might be terminated at will by any one of the colonies. The objections which he had offered to the original arrangement with South Australia were not only valid but had acquired additional force from the rapid expansion of the Murray River trade. He was not jealous of the success of the Adelaide merchants in invading the gold fields, but he did object to the unfair importation by way of the Murray of large quantities of tobacco and other articles particularly tea, coffee, and sugar, under cover of the lower rate of duties leviable under the Border convention.<sup>27</sup> As the difference in the tobacco duties was considerable, amounting to £112 per ton, it gave a decided preference to the traders of another colony at the expense of the merchants of Victoria. The Victorian proposal for an assimilation of tariffs, he admitted, did indirectly involve certain fiscal difficulties in reference to traffic on the Murray. But the proposal was none the less a separate and distinct proposition and as such ought to be considered on its own merits alone and not be tied up with the settlement of the Murray River question. The procrastination of the Adelaide executive in the face of the increasing loss of revenue to Victoria and the arguments advanced in support of further postponement did not show much consideration for the

<sup>21</sup> *Ibid.*, November 25, 1856.

<sup>22</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 1:24.

<sup>23</sup> *The Melbourne Argus*, November 26, 1856.

<sup>24</sup> December 19, 1856.

<sup>25</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 1:122.

<sup>26</sup> *Victoria Hansard*, 1856-7, vol. 1:180.

<sup>27</sup> *Ibid.*, 182.

interests of the Victorian government. According to newspaper reports, the South Australian government did not intend in any case to agree to the suggested modification of the convention.

Under these circumstances, there was nothing left but for the legislature to take definite action for the protection of the revenue and commerce of the colony. He did not wish to insinuate that the South Australian government was actuated by unworthy motives or intended to take advantage of Victoria, but the policy of that government had undoubtedly been dictated by local commercial interests which were unwilling to surrender the advantages they enjoyed under the existing convention. The Victorian executive, he announced,<sup>28</sup> would give notice to the South Australian government of the termination of the agreement, and of its intention to make arrangements with New South Wales for the collection of duties on the South Australian frontier. The government of New South Wales had already been sounded in regard to the matter and was not averse to some such arrangement. In proposing this policy, the government did not intend to place obstructions in the way of commerce, but only to make provision for the effective collection of the duties to which the colony was entitled. Both government and people, he concluded, were desirous of seeing a final determination of the question on the basis of freedom of intercolonial trade and uniformity of tariffs. And upon that basis alone could there be a permanent settlement of the border duties question.<sup>29</sup>

Mr. O'Shanassy,<sup>30</sup> the leader of the opposition, took the Collector of Customs sharply to task for his arrogant tone towards the South Australian government.<sup>31</sup> Moreover, the arrangement proposed did not promise a final or satisfactory settlement of the question. It proposed, in effect, to combine with New South Wales for the purpose of coercing South Australia into an objectionable convention. But he did not recognize the expediency of a policy which left out of consideration the interests of a sister colony in the Murray River trade, nor did he believe that any agreement with New South Wales alone would bring the border question any nearer a settlement. The adoption of such unfriendly, if not coercionary measures, would not promote the ultimate solution of the difficulty by means of a uniform tariff. The question was one which ought to receive consideration by a federal conference of the various colonies. Several other members of the legislature, including Mr. McCulloch, concurred in the opinion that an assimilation of tariffs was urgently required.<sup>32</sup> The critics of the government

<sup>28</sup> *Victoria Hansard*, 1856-7, vol. 1:180.

<sup>29</sup> *Ibid.*

<sup>30</sup> John O'Shanassy, a leading politician and several times premier of Victoria. Mennell, *Dictionary Australasian Biography*, 358.

<sup>31</sup> *Victoria Hansard*, 1856-7, vol. 1:183.

<sup>32</sup> *Ibid.*

did not dare to carry their opposition to the extent of demanding a division upon the resolution. They realized that the policy of the government commanded the active support of the mercantile community out of doors. The resolution was accordingly favorably reported to the House and adopted without question<sup>33</sup> and an address in conformity thereto presented to the Governor.<sup>34</sup>

The action of the Victorian assembly aroused much indignation among the mercantile community at Adelaide.<sup>35</sup> The Victorian government, it was alleged, having waged a successful warfare with New South Wales, was now seeking an alliance with its former foe in order to make an assault on the South Australian tariff. It was accused of a breach of faith in attempting to break through an existing convention simply because it had not turned out to be as profitable as anticipated. It was playing the part of the bully in using its superior power in order to dictate to a weaker colony. The public of South Australia, the *Register* explained,<sup>36</sup> did not demand the maintenance of the status quo. The government was prepared to discuss the question of an assimilation of Murray River duties and to go even further in the direction of an Australian zollverein, but it would not carry its spirit of conciliation to the point of compliance with the unreasonable demands now made by Victoria.

The discussion aroused by the border tariff war and the misunderstanding over the Murray River convention had served one useful purpose in directing the attention of the people of the several colonies to the broader question of intercolonial relations. The special interests of particular groups of competing merchants were partly forced into the background by the growing recognition of the importance of customs uniformity for the Australias. The events of the last three years had emphasized the need of a common fiscal policy if intercolonial trade was to be saved from the depredations of selfish provincial interests. The development of the social and economic relations of the colonies through the opening up of the Riverina country had not been productive of an era of good feeling or of a spirit of coöperation. Instead of combining their forces for the common good, the several governments endeavored to turn this fortunate expansion of trade to their own fiscal advantage or to the profit of their own citizens. The Border conventions were little better than temporary truces forced on the colonies by reason of their own feebleness.

The economic and political advantage of an assimilation of tariffs had already been recognized by a small section of the public. A few far-seeing

<sup>33</sup> *Ibid.*

<sup>34</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 1:122.

<sup>35</sup> *The South Australia Register*, December 12, 1856.

<sup>36</sup> *Ibid.*

statesmen<sup>37</sup> were endeavoring to lead the way to the formation of an Australian federal union on the basis of a zollverein. Their views, however, were far in advance of public opinion.<sup>38</sup> But the untoward operation of divergent tariffs on the Murray was not entirely lost upon the commercial community.<sup>39</sup> The Melbourne chamber of commerce got interested and laid before the government a scheme for an assimilation of tariffs on the Murray on the basis of the Victorian Customs Act.

The Victorian government took advantage of the awakened interest in intercolonial affairs to place before the neighboring executives a definite proposal for an assimilation of tariffs.<sup>40</sup> The Chief Secretary<sup>41</sup> did not limit his overtures to the usual generalities as to the advantage of uniform customs but proceeded to set forth that there would be no great difficulty on the score of revenue in arriving at an agreement for assimilation. The official returns of the past year, he claimed, would show that by the adoption of the Victoria tariff New South Wales would suffer a loss of but thirteen per cent, Van Dieman's Land but eight per cent, while South Australia would be three per cent better off. With a view to a final settlement of the difficulty, the government submitted the following proposition: "(1) the abandonment by New South Wales and Tasmania of the discriminating duties on spirits, beer, and wine, where they impose a higher rate of duty on foreign than on English and colonial products; (2) the abandonment by South Australia of the system of ad valorem duties and of low duties on articles at present untaxed in the other colonies; (3) the abandonment by Victoria of her high duties on tea, raw sugar, and beer; (4) the adjustment of the duties on tobacco and sugar in all the colonies." An accompanying schedule of rates embodying these principles was submitted to the other colonies as furnishing a satisfactory basis for a uniform tariff. Should this proposition meet with favor, it was suggested that the delegates who were soon to assemble at Melbourne to consider the question of coast lighthouses, should also be empowered to discuss the details of the Victorian proposal.<sup>42</sup>

The Colonial Secretary of New South Wales<sup>43</sup> promptly replied<sup>44</sup> that the matter would receive early consideration but that it was thought inexpedient to authorize the delegates to the Lighthouse convention to deal with the question of tariff assimilation. Notwithstanding this promise, the gov-

<sup>37</sup> Wentworth, Thompson and Duffy.

<sup>38</sup> Allin, *The Early Federation Movement of Australia*, chapters 4 and 5.

<sup>39</sup> *The South Australia Register*, July 22, 1856.

<sup>40</sup> July 25, 1856. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:391.

<sup>41</sup> Hon. Wm. C. Haines, first premier of Victoria, November, 1855, to March, 1857.

<sup>42</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1856-7, vol. 4:391.

<sup>43</sup> Stuart A. Donaldson, first premier of New South Wales, from June, 1856, to August, 1856. Parkes, *Fifty Years in the Making of Australian History*, 1:114.

<sup>44</sup> July 30, 1856. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:392.

ernment neglected to take action, and the Melbourne executive found it necessary a few months later to bring the subject a second time to the attention of the Sydney authorities.<sup>45</sup> The Victorian executive was the more urgent as it was desirous of dealing with the matter during the coming session of the legislature. But the government of New South Wales refused to be hustled. It was not ready, Mr. Donaldson declared,<sup>46</sup> to submit any complete scheme of customs assimilation at present. The matter could well remain in the status quo as no alterations of the tariff were contemplated during that session of the legislature. The subject, however, would be taken up by the executive as early in the new year as possible.

In the legislative council, E. Deas Thompson continued to preach the gospel of the economic unity of the Australias.<sup>47</sup> The *Sydney Herald* supported his efforts in a series of able editorials strongly<sup>48</sup> emphasizing the need for an assimilation of tariffs as a preliminary step to a closer bond of union. There could be no permanent settlement of the border difficulty save by the establishment of a common tariff, the schedules of which should be subject to alteration only with the consent of the contracting colonies. It looked for the day when there would be a zollverein for all the Australian colonies, but the time, it admitted, was not yet ripe for that. This admission was unfortunately only too true; the people of New South Wales were not yet ready to respond to appeals for intercolonial coöperation.

The reply of the Tasmanian executive was distinctly non-committal though much more friendly to the principle of the Victorian proposal than that of New South Wales. The government,<sup>49</sup> Mr. Champ<sup>50</sup> explained, was not in a position to entertain any project looking towards a reduction of the existing rates of duties. "It was, however, not unlikely that the local legislature might desire in general that like duties on like articles should prevail throughout the Australian colonies, leaving to each colony to include in its tariff" an additional list of articles in case the financial necessities of the local exchequer should require the levying of extra taxation. In the event of any alteration being made in the local tariff every consideration would be given to the suggestions of the Melbourne executive. The Victorian government endeavored to make the most out of this response by requesting<sup>51</sup> the Tasmanian executive to give sufficient notice to Victoria of any impending modifications of the tariff so that arrangements

<sup>45</sup> October 23, 1856. *Ibid.*

<sup>46</sup> November 18, 1856. *Ibid.*

<sup>47</sup> *The Sydney Morning Herald*, October 30, 1856.

Parkes, *Fifty Years in the Making of Australian History*, 2:332.

<sup>48</sup> *Ibid.* September 6, 1856. October 23, 1856. December 16, 1856.

<sup>49</sup> September 6, 1856. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:393.

<sup>50</sup> Col. Wm. T. N. Champ, first premier of Tasmania, 1856 to 1857.

<sup>51</sup> October 18, 1856. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:393.

might be made, if possible, for the adoption of a common schedule of duties.

The attitude of the South Australian executive was by no means favorable.<sup>52</sup> The government fully recognized the importance of the question raised and even approved of the principle of an assimilation of tariffs but it flatly refused to accept the proposition of Victoria. However desirable a uniform tariff might be in theory, it would prove most disastrous to South Australia in practical operation. Were the colonies united under one federal government there would be, in the opinion of the Adelaide executive, but little difficulty in "raising from a uniform tariff a revenue adequate for all public purposes and sufficient to meet what would then be the common liabilities of all." But under the existing régime, the first duty of every colonial government was to provide the necessary revenue for the local treasury by the most productive and least burdensome means. Moreover, the peculiarly favored circumstance of some of the colonies placed at their disposal sources of taxation which no assimilation of tariffs could make available for all. The adoption of the Victorian tariff would inflict serious loss upon the local treasury; for so far from gaining three per cent, as Mr. Childers had intimated, South Australia would actually sacrifice twelve and three-fourths per cent of the customs revenue estimated upon the existing basis of calculation. And this amount, it was claimed, would undoubtedly be raised to sixteen per cent if allowance were made for the loss of revenue which would inevitably result from the falling off in imports under a higher tariff, together with the further loss which might be anticipated from extensive smuggling operations along the border.

But the government was not content to rest its case upon purely financial grounds. It attacked the very basis of the proposed assimilation of tariffs. It repudiated the Victorian tariff and all its works. The system of ad valorem duties, it maintained, was a juster method of securing an equitable contribution from the general body of consumers than the tariff for revenue system of Victoria. The latter, moreover, was particularly objectionable as a form of class legislation. It favored the rich by exempting luxuries from taxation, while at the same time bearing heavily upon the poor by imposing a high duty upon the necessities of life, such as tobacco. In short, the proposal of the Melbourne executive was inadmissible on several grounds: "(1) it involved a departure from a most equitable and simple mode of making all consumers of imported goods contribute to the general revenue; (2) because it would probably involve a very serious loss of revenue without any compensating advantage; (3) because it assumed that the other colonies should admit the present Victorian tariff or rather one

<sup>52</sup> September 25, 1856. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:398.



nearly identical with it as a permanent substitute for their own, whereas, in framing a common tariff, many mutual concessions must obviously form the basis of such an arrangement. Therefore on principle, on grounds of expediency and mutual equity, the present proposal would not in His Excellency's opinion be favorably considered by a South Australian legislature."

The government, however, did not wish to close the door to future negotiations for a uniform tariff upon a more equitable basis. Although not prepared to submit a counter proposition, it was, it declared, sincerely desirous of promoting a uniform tariff for the Australias. To this end, it was favorable, or at least not indisposed, to refer the preliminary discussion of that question to an intercolonial conference. But it did not deem it expedient to refer such an important matter to the forthcoming Lighthouse conference, as had been suggested.<sup>53</sup>

The question of a uniform tariff strongly appealed to those members of the mercantile community who were interested in the Riverina trade. The Adelaide chamber of commerce expressed its approval of the principle of an assimilation of tariffs; and in furtherance of this object drew up a series of resolutions<sup>54</sup> for submission to the sister Chambers of the other colonies as a basis upon which a general tariff might be framed. But as these propositions involved the acceptance of the ad valorem system of South Australia, they did not commend themselves to the favorable judgment of the mercantile communities in the sister colonies.<sup>55</sup> It was also too evident that the business interests of the capital were hostile at heart to the Victorian proposal and that they would back up the government in opposition to any scheme of customs uniformity based upon an alteration of the fiscal system of the colony and the acceptance of the Victorian tariff. They did not insist upon the maintenance of the existing tariff in its entirety but they demanded such a restriction of the free list as to make an assimilation of tariffs impossible.<sup>56</sup>

The unfavorable attitude of the South Australian government did not destroy the hope of the Melbourne executive of reaching a common understanding. But the latter saw the necessity of modifying its proposals so as to make them more acceptable to South Australia. The Victorian government did not forego any of its hostility to the system of ad valorem

<sup>53</sup> Victoria, *Notes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:393.

<sup>54</sup> "(1) That it is an equitable principle that all imported articles should contribute to the revenue.

"(2) That high duties on any particular article of import have a tendency to promote the illegal landing and importation of those articles.

"(3) That if a free list be admitted it should consist solely of the following items, viz.: agricultural produce, works of art, books, live animals, manures, plants, seeds, roots, passengers' baggage, coin and bullion, packages of articles for export and other articles of a similar character."

<sup>55</sup> *The Melbourne Argus*, October 14, 1856.

<sup>56</sup> *The South Australia Register*, December 27, 1856.

duties. There was, it declared,<sup>57</sup> little hope for an adjustment of tariffs so long as South Australia adhered to its own peculiar fiscal system. It was most unlikely that the Victorian legislature could under any circumstances be brought to adopt the tariff principles of South Australia.<sup>58</sup> But at the same time the government was sincerely desirous of meeting the legitimate objections of the Adelaide executive to the proposed basis of assimilation. South Australia was accordingly invited to join with the other colonies in imposing the same rates of duties on articles taxable by all; while in respect to all other articles which were duty free in the sister colonies, she should be permitted to retain the existing tariff charges.<sup>59</sup> In case that this proposition did not meet with favor at Adelaide, the Victorian government requested the South Australian executive to submit a counter proposition for an adjustment of tariffs.

The speech of the Governor at the opening of parliament<sup>60</sup> contained a favorable reference to the proposed assimilation of tariffs. The Assembly, however, seemed somewhat skeptical of the outcome of the negotiations and contented itself with a promise of "cordial support" in case an arrangement could be "successfully and advantageously carried out."<sup>61</sup> The subject failed to attract any attention in the debate on the address, but came in for considerable discussion a few days later on a resolution by Mr. Childers:<sup>62</sup> "(1) that from and after the first day of March next, the arrangement now in force with reference to the introduction of goods subject to duty of customs from South Australia and New South Wales by or across the river Murray should cease and determine; (2) that arrangements should be made with the government of New South Wales for collection at the common frontier from the date aforesaid of duties on goods carried up the river Murray, and for free trade across the river Murray."

The Collector of Customs reaffirmed<sup>63</sup> his belief that there could be no permanent settlement of the border difficulty so long as there were serious differences in the tariffs of the several colonies. All the speakers concurred in the view that there ought to be an assimilation of tariffs, but there was the widest difference of opinion as to the best means of attaining that end. Some

<sup>57</sup> October 18, 1856. Victoria, *Notes and Proceedings of the Legislative Assembly*, 1856-7, vol. 4:295.

<sup>58</sup> The South Australia tariff was held to be open to the objection of imposing "a vexatious and fraudulent system of duties," warrantable only under circumstances of revenue pressure in a sparsely settled country.

<sup>59</sup> The Victoria government pointed out that the Adelaide authorities had apparently misinterpreted the meaning of the Victorian estimate of the customs returns of South Australia as compared with the Victorian tariff. It was merely intended to state that the South Australian tariff was 3% more productive than that of Victoria.

<sup>60</sup> November 25, 1856. Victoria, *Notes and Proceedings of the Legislative Assembly*, 1856-7, vol. 1:24.

<sup>61</sup> December 10, 1856. *Ibid.*, 31.

<sup>62</sup> Victoria *Hansard*, 1856-7, vol. 1:180.

<sup>63</sup> *Ibid.*

of the members supported the policy of the "big stick."<sup>64</sup> Victoria, it was contended, should take the initiative and prepare a tariff for the other colonies "which they would be compelled to adopt from necessity if not from choice." On the other hand, Mr. O'Shanassy, the leader of the opposition, voiced the opinion that the coercive measures of the government in threatening to abrogate the border agreement would destroy the prospect of securing uniformity of tariffs. The subject, he concluded, must soon be considered by a federal conference.

In conformity with the policy of seeking an arrangement with the government of New South Wales in regard to the Murray duties, Mr. Dryburgh<sup>65</sup> was sent on a mission to Sydney soon after the beginning of the new year.<sup>66</sup> The object of the visit was twofold, to arrange for the joint collection of duties on Murray-borne goods and to provide for unrestricted free trade across the border. He proposed, as a basis for an agreement: (1) the establishment of a joint customs house at or near the South Australian boundary; (2) the adoption of a common rate of duty on products bound up the river; (3) an equitable division of the proceeds of the Murray River duties. But a difficulty immediately presented itself. The Colonial Treasurer<sup>67</sup> of New South Wales refused to increase the existing rate of duties up to the level of the tariff of Victoria. Mr. Dryburgh was obliged to modify his proposal; and he now declared that the Victorian government would agree to the adoption of the New South Wales customs duties on the Murray and would make such further arrangements for the maintenance of the customs house, the collection and distribution of the revenue, and the settlement of fees, licenses for steamers, tonnage dues, passenger rates, etc., as might be necessary under the circumstances.

Three days later, Mr. Dryburgh again requested<sup>68</sup> to be informed of the views of the New South Wales government in respect to the conditions under which South Australia might be expected to regulate the Riverina trade for the future. The Victorian government, he intimated by way of special inducement to New South Wales, expected to renew negotiations for the collection and distribution of duties on Murray-borne goods. But it would insist upon such a modification of the South Australian tariff upon the Murray as would bring it into accord with the customs of New South Wales and Victoria, so far at least as the rated duties were concerned, "as indispensable to any safe or satisfactory arrangement for collecting the duties at the Goolwa." As the Victorian government was pre-

<sup>64</sup> See Speech of Mr. Hammill. *Ibid.*, 182.

<sup>65</sup> The Commissioner of Customs.

<sup>66</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:404.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1, no. 23.

<sup>67</sup> Stuart A. Donaldson, colonial treasurer in the Parker ministry, 1856-7.

<sup>68</sup> January 16, 1857. New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:404.

pared to accept the New South Wales tariff on the Murray, he hoped that the Sydney executive would join in a similar expression of opinion as to the desirability of and necessity for South Australia acceding to the proposed arrangement. In short, Mr. Dryburgh intimated to New South Wales that the Victorian executive would regard the assistance of the Sydney government in forcing an objectionable agreement on South Australia as a *quid pro quo* for the concession which the Victoria executive was making to New South Wales in respect to the Murray River tariff.

Mr. Donaldson, the treasurer of New South Wales, was wary about making an alliance with Victoria until an effort had been made to include South Australia in the settlement of the difficulty.<sup>69</sup> He strongly desired to bring about a general assimilation of tariffs, as had been proposed by Victoria, or if that were not possible, to avoid the inconvenience of a system of border customs. But before coming to an arrangement with Victoria, the government of New South Wales should, he declared,<sup>70</sup> seek to obtain "an absolute assimilation of the tariff of South Australia with that of New South Wales so far at least as related to the articles on which duties are imposed by the Customs Duties Act of New South Wales, but leaving perhaps to South Australia her *ad valorem* duties should she still desire to retain them. In case of the rejection of this proposition, he favored an assimilation of the tariffs of the three colonies for the Murray River trade." Should South Australia acquiesce in either of these solutions of the present difficulty, there would appear to be no necessity for the establishment of a customs house at the common Murray boundary, but should she decline both alternatives, the government of New South Wales must then needs consider, however reluctantly, "the propriety of joining with Victoria in taking the necessary steps to protect the revenues of the colonies."

The matter was duly brought before the executive council which decided to submit the Victorian proposal to the government of South Australia together with an explanation of the views of the local executive.<sup>71</sup> New South Wales, it was declared, would be willing "to concur in the assimilation of the tariffs of the three colonies or would agree to a special tariff for the Murray River"; and provided that either of these propositions were accepted she would join in an arrangement for the collection of all river duties at Goolwa. "But should South Australia decline to accede to either proposal, the government of New South Wales would "then be less indisposed" to unite with Victoria in placing a customs house at the common boundary." These propositions were duly communicated to the South Aus-

<sup>69</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:403.

<sup>70</sup> Letter of the Colonial Treasurer to the Colonial Secretary. *Ibid.*, 408.

<sup>71</sup> January 19, 1857. New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:410.

tralian government with a timely warning that in case of rejection, the government of New South Wales would be forced to reestablish border customs for the protection of its revenue.<sup>72</sup>

The character of these proposals manifestly attested the desire of the Sydney government to reach an understanding with South Australia prior to the settlement of the question of traffic across the Murray. If a favorable agreement could be reached with South Australia in respect to trade along the Murray, New South Wales would be in a stronger and more independent position to negotiate with the Melbourne government for a division of the Murray River receipts and for free trade across the border. In short, the government of New South Wales preferred an alliance with South Australia to a separate agreement with Victoria. The Colonial Treasurer hoped to unite the interests of South Australia with those of New South Wales so as to effect a counterpoise to the superior influence of Victoria. But in case South Australia should refuse to throw in her lot with New South Wales the latter announced her intention of seeking a new partner and of allying herself with Victoria in an effort to exact a liberal contribution to the local treasury from the South Australian trade up the Murray.

The reply of the Colonial Treasurer to Mr. Dryburgh was a diplomatically phrased negative. No alteration in the existing tariff, he pointed out,<sup>73</sup> could be made without the consent of parliament. Moreover, "in view of the importance of the coöperation of the three colonies" the government of New South Wales did not deem it "advisable to enter into any arrangement with the government of Victoria until the opinion of South Australia was ascertained." If the latter should agree to a common tariff "no necessity may arise for the establishment of a customs house on the boundary. . . . This government would, of course, readily concur in the proposed assimilation of the Victorian tariff to that of New South Wales in respect to the Murray River traffic, but it must not be held to bind thereby this or any future legislature of the colony not to alter the present tariff or to refrain from imposing fresh duties on articles now upon the free list." It was not prepared at present to admit "that the consent of the Australian governments to an assimilation of duties will form an indispensable condition to any arrangement hereafter to be made for the collection at Goolwa of the duties leviable in the three colonies." There was, he adroitly added, an important consideration which could not be overlooked in the discussion of this question, viz., "that owing to the favorable geographical situation of Melbourne and its proximity to the southern boundary of New South

<sup>72</sup> The revenues of New South Wales and Victoria had already suffered a loss of £7,000 each through the diversity of tariffs and the amount was increasing with the growth of the Riverina. *The Sydney Morning Herald*, May 2, 1857.

<sup>73</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:407.

Wales, the colony of Victoria would largely profit by the freedom of trade across the Murray whether a customs house were established at the common boundary of the three colonies or not, provided that the duties were assimilated on articles, such as tobacco, which were capable of easy transit."<sup>74</sup>

The South Australian government referred the correspondence to the Colonial Treasurer, R. R. Torrens,<sup>75</sup> who prepared an elaborate, if somewhat inconclusive, report upon the respective proposals of the neighboring governments.<sup>76</sup> From the character of the demands of Victoria it might be suspected, he declared, that the Victorian government was desirous of checking the Murray River traffic in order to promote the prosperity of the merchants and railroads of that colony. But he diplomatically added, he did not believe that Victoria would deliberately adopt such a selfish and illiberal policy.

The proposals of New South Wales were also unacceptable, though for different reasons. The adoption of the New South Wales tariff would, he claimed,<sup>77</sup> entail upon South Australia a loss of eighteen per cent of her customs receipts solely in order that the revenue of the sister colonies might be enriched. Moreover, the tariff of New South Wales was not based on any recognized principle and was more inequitable in its operation than that of South Australia. To accept the former in its entirety would encourage smuggling and yield an insufficient revenue; whereas to adopt it and at the same time retain the local ad valorem duties would involve too heavy a fiscal burden upon South Australia. The alternative proposition of a special Murray tariff was equally open to objection inasmuch as it would introduce two different rates of duties in South Australia. Some districts would enjoy a preferential advantage over other portions of the colony. There would be the gravest difficulty in the enforcement of the revenue laws, as goods would be smuggled overland from Adelaide to the river in order to avoid the customs officers at Goolwa. And even though the several legislatures should agree to an assimilation of tariffs there could be no guaranty that this uniformity would be maintained since no legislature could bind its successors or divest them of their power to deal with their own fiscal systems. This consideration in itself would "suffice to demonstrate that however desirable may be the adoption of a common tariff, federation of the colonies must precede the effectual establishment of that measure.

"Nevertheless in anticipation of the ultimate federation of these colo-

<sup>74</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:407.

<sup>75</sup> Colonial treasurer of South Australia from October, 1856, to August, 1857, subsequently premier of South Australia.

<sup>76</sup> February 17, 1857. South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8 vol. 1, no. 23, p. 3.

<sup>77</sup> *Ibid.*

nies, as an acknowledgment that uniformity of tariffs would be advantageous and with a desire to meet the other colonies so far as the finances of this province would permit" he submitted a tentative customs schedule. If the sister colonies would agree to accept the tariff proposed or adopt the existing South Australian tariff, the government would undertake to collect the duties of the three colonies on the Murray. But should they refuse, South Australia could only offer to grant special facilities for the collection of Murray River duties by the enactment of stringent laws against smuggling. He accordingly suggested that the South Australian officials should examine and brand goods intended for the Riverina and that a clearance should be thereupon granted setting forth a full description of the goods, etc., and that a duplicate copy should be forwarded to the joint customs officers of New South Wales and Victoria. Upon the arrival of the ship at the common boundary the captain should make a declaration of her cargo and also of the goods which had been landed in South Australia en route. Duties should then be paid upon the goods imported according to the tariffs of New South Wales and Victoria, a heavy fine being chargeable for any goods landed in excess of the manifest.<sup>78</sup>

The South Australian executive concurred in these views and soon after informed the Sydney government that it was unable to accept either of Mr. Donaldson's proposals as a basis for collecting duties on river-borne goods.<sup>79</sup> As a preferable alternative it submitted to the sister colonies the counter proposition of its own colonial treasurer. In the opinion of the government no other policy was compatible with the dignity and fiscal independence of the colony. The government seemed to realize, however, that Mr. Torrens' suggestion would not be kindly received, for it closed its argument with the pious hope that whatever measures might be taken for the protection of the revenues of the respective colonies should interfere as little as possible with freedom of commerce.

The arguments of Mr. Torrens were subjected to very severe criticism in New South Wales.<sup>80</sup> The claim of South Australia that she could not afford to give up her ad valorem duties was regarded as somewhat strained in view of the fact that these duties produced in all but £45,000. There was even less sympathy with the South Australian objection to the anomalous operation of the special Murray tariff. For the past two years New South Wales and Victoria had submitted to that very anomaly in order to foster the Murray River trade. It was now the turn of South Australia to make a similar sacrifice for the other colonies. She could afford to set up a double tariff the more readily inasmuch as the amount of purely

<sup>78</sup> *The Sydney Morning Herald*, May 21, 1857.

<sup>79</sup> *South Australia, Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1, no. 23, p. 3.

<sup>80</sup> *The Sydney Morning Herald*, May 21, 1857.

South Australian trade on the Murray was exceedingly small, the great bulk of the traffic being carried on beyond the local boundaries. The Murray River traffic was, in fact, intercolonial in character and not domestic. The danger of smuggling, it was believed, could be minimized by an efficient preventive system. In any case smuggling operations could not be carried on on a sufficiently extensive scale to affect the revenues of the colonies without soon being detected and stopped.

Soon after,<sup>81</sup> the government of Victoria took steps to bring its controversy with South Australia to a conclusion. In accordance with the resolution of the Assembly, the Chief Secretary, W. C. Haines, notified<sup>82</sup> the Adelaide executive of his intention to terminate the convention with that colony on March first and that from that date forward Victoria would proceed to collect duties at the Murray frontier according to her own tariff. Negotiations were already under way with New South Wales in regard to the collection of duties along the river and across the border.

The approaching termination of the agreement aroused the Adelaide executive to a realization of the serious loss and inconvenience which would befall the trading interests of the colony from the erection of customs houses at the boundary. In a final hasty attempt to avert the evil, Mr. Torrens was sent on a mission to Melbourne in the hope of effecting a satisfactory settlement.<sup>83</sup> But the mission proved fruitless. Neither government was prepared to make the necessary compromise; each held out for its respective fiscal rights. Victoria believed that her threatened action would bring South Australia to a realization of the justice of her claims, while the latter as stoutly refused to sacrifice her fiscal independence or surrender the economic advantages of her situation. The negotiations at last degenerated into a petty squabble between the two governments. Differences of opinion unfortunately arose respecting the meaning of certain words in one of the dispatches. Charges of bad faith and selfishness were bandied to and fro and demands for a withdrawal and apology were made by both parties. The real question at issue was lost sight of amid the bickerings of the combatants. In the midst of this outbreak of official spleen and false provincial pride the Murray River convention came to an end.<sup>84</sup>

The speech of the Lieutenant Governor<sup>85</sup> at the opening of the first parliament of South Australia, April 22, 1857, announced<sup>86</sup> that negotiations were pending with the neighboring governments for a new convention and held out the hope that an agreement might ultimately be reached advan-

<sup>81</sup> February 9, 1857.

<sup>82</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1, no. 23, p. 8.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> Sir R. MacDonnell, governor of South Australia from 1855 to 1862.

<sup>86</sup> Rusden, *History of Australia*, 3:101.



tageous to the interests of all parties. This paragraph attracted but little notice in either chamber in the debate on the address in reply.<sup>87</sup> In the legislative council some of the members<sup>88</sup> were inclined to criticize the conduct of the government during the negotiations. The debate in the Assembly revealed a firm determination on the part of the House to maintain the fiscal independence of the colony. In moving the address<sup>89</sup> Mr. Peake declared that "the menacing and uncompromising attitude assumed by our wealthy neighbors is so apparent that there seems nothing left for it but to make the best possible use we can of our own resources and leave them to do the like." The Colonial Treasurer accused the Victorian executive of having "shown the most factious opposition. The government of New South Wales, on the contrary, had dealt with the question in the most statesmanlike manner and had refused to adopt the scheme of Victoria."<sup>90</sup> The speech of Mr. Neales was even more outspoken in its condemnation of the attitude of Victoria.<sup>91</sup> He would not go so far, he declared, as to assert that there should be no assimilation of duties but there must be no assimilation by coercion. The government of South Australia should give Victoria to understand that it would stand on its rights and would "submit to no dictation from its big brother." Only one member<sup>92</sup> ventured to express the opinion that the requests of the sister colonies were not unreasonable.<sup>93</sup>

Not long after,<sup>94</sup> the question was again brought to the attention of the legislative council on a motion of Captain Hall for the correspondence in respect to the Murray River duties.<sup>95</sup> The difficulty with Victoria was due, according to Captain Hall, to the lack of foresight on the part of Mr. Childers who, having underestimated in the first place the extent of the Murray River traffic and its probable future expansion, now sought to vent his annoyance at his miscalculation upon the South Australian government in order to save himself from public condemnation. The Victorian government ought never to have consented to allow South Australia to collect duties on Murray River goods according to the South Australian tariff, but having once agreed to that arrangement it should have lived up to its engagement. The question of the Murray River traffic, could, in his judgment, be easily settled upon the basis of the conciliatory proposals of New South Wales. He did not believe that the sister colonies would throw off on South Australia the burden of paying the salaries of customs house officers

<sup>87</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 19.

<sup>88</sup> Mr. Baker thought that an easy arrangement could be brought about by agreeing to the collection of duties for the other colonies. Mr. Foster favored an assimilation of the tariffs of the three colonies.

<sup>89</sup> April 28, 1857. South Australia, *Parliamentary Debates*, 1857-8, p. 30.

<sup>90</sup> *Ibid.*, 34.

<sup>91</sup> *Ibid.*, 47.

<sup>92</sup> Mr. F. S. Dutton, subsequently commissioner of Crown lands and premier of South Australia.

<sup>93</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 34.

<sup>94</sup> May 19, 1857.

<sup>95</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 115.

who were acting on their behalf.<sup>96</sup> The Commissioner of Public Works<sup>97</sup> went even further in his strictures upon the conduct of the neighboring government. The Victorian executive, he declared,<sup>98</sup> "had used language and put a necessity upon this colony as regarded the adoption of their tariff which if this colony had consisted of slaves might have been submitted to, but it could not have been done by free and honorable men nor would any man of business have assented to such an arrangement as was proposed." These views appear to have commended themselves to the Council as a proper expression of the fiscal independence of the colony. Mr. Baker<sup>99</sup> was the only member who was rash enough to defend the unpopular demands of the Victorian government.

<sup>96</sup> Mr. Younghusband had expressed a contrary view.

<sup>97</sup> Samuel Davenport, commissioner of public works, March 20, 1857 to August 20, 1857.

<sup>98</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 116.

<sup>99</sup> Hon. John Baker, subsequently premier of South Australia.

## CHAPTER VII

### THE SECOND MURRAY RIVER CONVENTION

The failure of the Dryburgh mission to Sydney compelled the Victorian government to seek another way out of the difficulty. The refusal of New South Wales to coöperate had left Victoria in the lurch. And Victoria was not in a position to act independently.<sup>1</sup> Apart altogether from the controverted question as to the right of a single legislature by resolution to set aside an agreement which had been voluntarily entered into by the governments of the three states, it was practically impossible for Victoria to collect her own duties on the Murray without the assistance of the other colonies or at least the coöperation of New South Wales. The interests of the three colonies were inseparable even though their policies were divergent.<sup>2</sup>

Fortunately the new commissioner of trade and customs, J. McCulloch,<sup>3</sup> was more liberal in his views on the economic relations of the colonies than some of his predecessors had been. His theoretical belief in the advantages of freedom of intercolonial trade was strengthened by his financial interests in New South Wales where he was a large holder of pastoral lands in the Riverina.<sup>4</sup> The attempt to coerce the neighboring colonies had manifestly failed. He accordingly decided to try more conciliatory methods in his relations with them. In a minute to the executive council<sup>5</sup> relative to the adjustment of duties on goods imported via the Murray he declared that an assimilation of the tariffs of the three colonies "was the simplest and would ultimately form the most lasting and satisfactory settlement" of this most difficult question. But as South Australia was averse to the abandonment of the system of ad valorem duties that solution of the problem must needs be deferred for the time being. He was opposed to the suggested establishment in conjunction with New South Wales of a joint customs house at the common boundary. To adopt a system of inland customs and especially to authorize the collection of duties at such an outlying point would be altogether a retrograde policy. The true course to pursue was for

<sup>1</sup> *The Sydney Morning Herald*, May 21, 1857.

<sup>2</sup> *Ibid.*, November 4, 1857.

<sup>3</sup> Hon. James McCulloch, commissioner of trade and customs in the Haines ministry from April, 1857, to March, 1858, subsequently several times premier of the colony.

<sup>4</sup> In a speech in the legislative assembly of Victoria, January 29, 1867, Mr. McCulloch denied the allegation that his fiscal opinions were governed by his business interests in the Riverina.

Victoria, *Parliamentary Debates*, 1867, vol. 3:104.

<sup>5</sup> May 8, 1857.

New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:413.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1, no. 48.

this government to join with New South Wales in again urging upon South Australia "the desirability of its collecting duties on goods shipped by the Murray River boats according to the tariff of New South Wales." He therefore recommended that the two sister colonies be invited to send delegates to a conference with a view to a final adjustment of the question. Provision should be made, however, in any new arrangement "for a more equitable distribution" of the Murray River customs receipts with New South Wales. As about "three-fourths of the goods sent up the Murray were for consumption in Victoria," he suggested that a like proportion of the duties be assigned to this colony especially as it was subjected "to a loss to a certain extent" by adopting the New South Wales proposal.

The Victorian government at once proceeded to carry out the suggested program of the Commissioner of Customs. The Adelaide government was asked<sup>6</sup> to take whatever steps might be necessary to make the proposed arrangement for the collection of Murray River duties the subject of a legislative enactment. But as the suggested arrangement could not, from the nature of the case, be looked upon as permanent, the two governments were duly invited to attend a conference at Melbourne in the hope of disposing of the question for all time. At the same time, the government of Victoria expressly called the attention of the Sydney government to the need for a redistribution of the Murray River duties on a basis more equitable to Victoria.<sup>7</sup>

The proposal of Mr. McCulloch was cordially welcomed by the South Australian government. The Colonial Secretary, B. T. Finnis, expressed<sup>8</sup> his satisfaction at the withdrawal of the Victorian demand for an absolute assimilation of duties to those of New South Wales and gladly agreed to furnish the services of South Australian officials for the collection of the Murray River duties for the other colonies, a small charge being deducted to meet the cost of collection. The net proceeds would then be paid over to the governments of New South Wales and Victoria in such proportions as the latter should agree upon. Although not prepared to pledge itself "to the principle of complete uniformity of customs" the government of South Australia "recognized nevertheless the desirability of diminishing by mutual concessions the discrepancies in the tariffs of the three colonies" which unfortunately were so great "as to cause some degree of embarrassment" in undertaking the collection of river duties. A few days later,<sup>9</sup> the government duly notified<sup>10</sup> the Sydney executive of its acceptance of the proposal of the Victorian authorities.

<sup>6</sup> May 19, 1857.

South Australia, *Notes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1, no. 48.

<sup>7</sup> New South Wales, *Notes and Proceedings of the Legislative Assembly*, 1857, vol. 2:414.

<sup>8</sup> *Ibid.*, 413.

<sup>9</sup> May 29, 1857.

<sup>10</sup> New South Wales, *Notes and Proceedings of the Legislative Assembly*, 1857, vol. 2:412.

The South Australian executive at once took steps to secure legislative authorization to carry out its part of the agreement by laying before the House the River Duties Bill.<sup>11</sup> In moving the second reading of the bill the Colonial Treasurer<sup>12</sup> gratefully acknowledged the loyal support which had been accorded the executive by all sections of the community. In view of the coming conference, the government "could not show its cards too much to the House" for fear that the other colonies might thereby "take all and ask for more." The bill, he continued, was brought in as a temporary measure but was so framed that it might be made permanent. Its primary purpose was to empower the local officials to collect the Murray duties of the other colonies. But there was another important feature providing for the payment of a drawback on goods chargeable with duty according to the tariff of South Australia but free under the customs acts of New South Wales and Victoria. The tariff of New South Wales was to be adopted for the present but an effort would be made at the coming intercolonial conference to bring about a general assimilation. The final determination of the matter would, however, be reserved to the local legislatures. Express instructions would be given to the South Australian delegates to return home at once should an attempt be made, as might perhaps be anticipated from the policy of the Victorian government,<sup>13</sup> to impose tonnage duties or otherwise interfere with freedom of traffic on the Murray.

The delegates would be further instructed to demand a recognition of the equal rights of South Australia in any arrangement for an assimilation of tariffs. "The government," he declared, "did not go to the entire length of desiring absolute uniformity in the tariffs of the three colonies which their different positions would not justify." A uniform tariff would produce similar results only if the tastes and circumstances of the different colonies were substantially alike. But such was not the case, as a simple illustration would suffice to prove: for example, the consumption of liquors was much larger in Victoria than in South Australia; on the other hand, an export duty on gold though highly valuable in Victoria would be useless in South Australia. Not only might the fiscal necessities of the colonies be so dissimilar as to require the respective governments to levy different rates of duties, but the various productions of the several provinces might also demand and ought to receive separate and distinct consideration in any scheme for an assimilation of tariffs. Although he was convinced that absolute uniformity of customs would prove a failure, he was of the opinion

<sup>11</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 175.

<sup>12</sup> R. R. Torrens, treasurer of South Australia from October, 1856, to August, 1857, and subsequent'y premier of the colony.

Mennell, *Dictionary of Australasian Biography*, 470.

<sup>13</sup> The Colonial Treasurer was referring in particular to the correspondence of Mr. Childers and to the minute of Mr. Dryburgh.

that the colonies should so frame their fiscal legislation as to avoid undue discrepancies in their tariffs. The delegates accordingly would be instructed to submit to the conference the tariff he had just laid before the House, leaving to the other colonies to impose such further duties as they might deem best suited to their particular circumstances. The government of South Australia would insist upon placing on the free list some of the staple food products such as potatoes, corn meal, flour, vegetables, and green fruit. It would agree to increase its duties on tobacco, sugar, tea, coffee, and like articles so as to meet the tariffs of the sister colonies half way upon condition that the latter would reduce their customs schedules to a similar degree. As these changes would considerably diminish the revenue of the colony, the government would be under the necessity of making up the deficit by increasing the ad valorem duties on other articles not subject to taxation in the neighboring colonies.

The object of the government in placing the South Australian tariff before the conference "was not to insist upon it in its entirety but merely to offer it as a basis and show how readily ad valorem duties might be changed into fixed duties." He defended the system of ad valorem duties against the objections of the other colonies and the keen criticisms of the tariff reformers, particularly the free traders, at home. An examination of the commercial statistics of the last four years would show, he maintained, that the adoption of the tariff of New South Wales would have resulted in a loss to South Australia of fourteen per cent in 1853, eleven per cent in 1854, eighteen per cent in 1855, and seven per cent in 1856 which, however, was a most exceptional year. He was opposed to the New South Wales tariff on principle inasmuch as it imposed high rates of duties upon articles largely consumed by the working class. It was equally open to practical objections especially in the matter of the high duties on tobacco and the classification of liquors.<sup>14</sup> In conclusion the Colonial Treasurer endeavored to throw off on the late legislative council the responsibility for the embroglio with the sister colonies. The unfortunate action of that body in defeating a bill similar to the present measure had occasioned all the difficulty and he sincerely hoped that this parliament would not adopt a like uncompromising attitude. He had no fear but that the proposals of South Australia would be met in a friendly spirit by New South Wales and Victoria and that satisfactory results might be expected from the coming conference.<sup>15</sup>

The ensuing debate developed into a general discussion of the whole fiscal policy of the government. Mr. Reynolds, the chief financial critic

<sup>14</sup> "These duties," he continued, "would lead to smuggling, increase the cost of collection and impair the revenue by the diminution of the consumption of the articles in question."

<sup>15</sup> Mr. Burford, a strong protectionist, also attacked the principle of an assimilation of tariffs.

of the opposition, opened up<sup>16</sup> a vigorous attack upon the ad valorem duties as cumbersome in operation and unfair in imposing a disproportionate burden on articles consumed by the working man. He challenged the correctness of the figures which the Colonial Treasurer had just presented to the House. According to his estimates, the loss in revenue from the adoption of the New South Wales tariff would only amount to about two per cent, a sum too small to stand in the way of an assimilation of duties. The opposition was quick to seize upon the Treasurer's unfortunate reflection upon the conduct of the late Council and the Victorian government alike. If the late Council was to blame, why, it was asked,<sup>17</sup> should the government have unjustly condemned the action of the Victorian executive; a question to which the supporters of the ministry were unable to make a satisfactory answer.

But one speech stood out distinctly in contrast to the partisan utterances of the other members of the House. Mr. Blyth entered a vigorous plea for the coöperation of the colonies in matters of federal interest.<sup>18</sup> He dissented from the view that an assimilation of tariffs could not be effected without injustice to some or all of the colonies. The day would come when the colonies would be bound together in a federal union with a common tariff and a supreme court of appeal for all Australia. He welcomed the present measure as a step in the right direction. If the colonies could agree to the adoption of the tariff of New South Wales for the Murray, they would sooner or later be forced to extend the principle "of a common tariff to the remaining portions of the several colonies."<sup>19</sup> The Murray River trade could never be carried on successfully unless it was freed from tariff restrictions. He hoped that South Australia would not long retain the system of ad valorem duties. But, if the government would persist in its mistaken policy, he hoped that it would permit the granting of drawbacks on broken packages sent up the Murray.

Notwithstanding much general criticism of the policy of the government, the opposition did not venture to assail the bill expressly. The agreement with the neighboring colonies was already in operation<sup>20</sup> and was proving very beneficial to South Australian trade. The bill was permitted to pass through all the stages in the House without a division. Its course through the upper house was singularly uneventful. The bill was slightly amended in committee but otherwise it did not attract special attention. All the amendments save one were readily agreed to by the Assembly. The

<sup>16</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 178.

<sup>17</sup> Speech of Mr. Waterhouse.

<sup>18</sup> South Australia, *Parliamentary Debates*, 1857-8, p. 180.

<sup>19</sup> He absolved the late Council from responsibility for the break with Victoria. The Melbourne legislature stirred up the trouble, in his opinion.

<sup>20</sup> It had been put into effect March 1, 1857.

Council acquiesced and the bill soon after received the Governor's assent.<sup>21</sup>

A copy of this act was forwarded to the governments of the neighboring colonies together with a statement of the general policy of the South Australian executive in respect to an assimilation of colonial tariffs. This government, Mr. Younghusband declared,<sup>22</sup> looked forward "to the proposed meeting of delegates to consider those subjects on which confederate action is desirable as affording an opportunity suitable to discuss the principles of a common tariff and confidently expect that by each colony yielding up some portion of its particular prepossessions a scale of uniform duties may be arrived at, which, meeting the general views of the various legislatures, might be adopted and made common to all and thus remove those embarrassments both to goods and commerce which are liable to endanger the good understanding between communities having so close a connection and maintaining such unnecessary distinctions and discrepancies in their fiscal relations." Shortly after, the legislative council and assembly appointed delegates to attend the projected federal conference.<sup>23</sup> But owing "to the cold water thrown upon the proposal by the governments of the adjacent colonies"<sup>24</sup> the conference failed to materialize and the question was allowed to drop for the time being.<sup>25</sup>

The government of New South Wales received the proposals of Mr. McCulloch in a most friendly spirit. The Colonial Treasurer<sup>26</sup> expressed the opinion<sup>27</sup> that an assimilation of the tariffs of the three colonies (had such a measure been practicable) would have "afforded the most satisfactory and lasting solution of all the difficulties." In order to avoid the danger of the reëstablishment of border customs houses, he recommended the acceptance of the Victorian scheme with the exception of the suggested unequal distribution of customs. The executive council readily agreed to the adoption of the New South Wales tariff on the Murray and undertook to introduce a bill into parliament to carry the proposed arrangement into effect. But the government refused to yield a particle in the matter of the division of the duties and insisted that the amount should be divided

<sup>21</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1:268.

South Australia. The Murray River Customs Act, 1857, no. 2. "An Act to regulate the collection and distribution of duties upon goods intended for consumption in the colonies of New South Wales and Victoria, carried by way of the River Murray." Assented to November 19, 1857. See appendix B.

<sup>22</sup> November 23, 1857. South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 2, no. 203.

Hon. Wm. Younghusband, chief secretary in the Hanson government from September, 1857, to May, 1860.

<sup>23</sup> Allin, *The Early Federation Movement of Australia*, 365.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1857-8, vol. 1:94.

Messrs. Hanson and Torrens were chosen delegates of the Assembly. Mr. Hall by the Council.

<sup>24</sup> Speech of Mr. Younghusband.

<sup>25</sup> Allin, *The Early Federation Movement of Australia*, 368.

<sup>26</sup> Mr. S. Donaldson.

<sup>27</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:415.



equally between the two colonies as in the past.<sup>28</sup> For a time it appeared as though a deadlock would ensue over the distribution of the duties.<sup>29</sup> Mr. McCulloch contended<sup>30</sup> that the large population of the Victoria diggings as compared with the few sparse inhabitants of the pastoral lands to the north of the Murray furnished a sufficient justification for the demand for a three-fourths share of the duties. But he failed to back up his contention by any statistics as to the amount of goods coming into the mining camps of Victoria by way of the Murray.<sup>31</sup> The Colonial Treasurer of New South Wales maintained on the other hand that the population of the mother colony drawing its supplies from the Murray was equal at least to that in Victoria and as the future held out the certain prospect of a considerable increase in that population with the steady development of the pastoral interests of the Riverina, there was no occasion for modifying the existing equitable basis of distribution.<sup>32</sup>

In the face of this opposition, the Victorian executive wisely concluded to withdraw for the time being its demand for a larger share of the duties. Until official data could be secured the government was not in a position to press its claims against New South Wales with any hope of securing their due recognition. Such was the judgment of the Commissioner of Trade.<sup>33</sup> The government accordingly notified<sup>34</sup> the Sydney authorities that it would accept an equal division of receipts upon condition "that the pending arrangements should be completed without loss of time." But in temporarily waiving its claims the government did so with the full intention of renewing them in case that the course of trade "under the new negotiations should make a fresh adjustment of the amounts collected advisable."

All difficulties being now removed, the government of New South Wales soon after introduced a bill<sup>35</sup> to authorize the carrying out of the arrangement. On the second reading of the bill,<sup>36</sup> entitled, "The Murray Customs Bill," the Colonial Treasurer<sup>37</sup> explained that the proposed agreement was essentially provisional until some better means of apportioning the duties should be agreed upon. When the South Australian executive ascertained the exact amount of duties which were due to the respective governments on imports via the Murray, it might be necessary to modify the existing basis of distribution. The bill had an uneventful passage through the As-

<sup>28</sup> The government was also of the opinion that the proposed conference should be postponed.

<sup>29</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:415.

<sup>30</sup> Mr. Donaldson had asked for an explanation of the demand for the larger percentage of duties.

<sup>31</sup> *The Sydney Morning Herald*, November 4, 1857.

<sup>32</sup> *The Herald* admitted that at the moment Victoria had the larger share of the Murray trade but it claimed that the tide would soon turn in the other direction.

<sup>33</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1857, vol. 2:418.

<sup>34</sup> September 2, 1857. *Ibid.*

<sup>35</sup> *Official History of New South Wales*, 272.

<sup>36</sup> *The Sydney Morning Herald*, October 23, 1857.

<sup>37</sup> Mr. Richard Jones, colonial treasurer of New South Wales from September, 1857, to January, 1858.

sembly and upper chamber. The advantage of such an arrangement was generally recognized and its terms were so favorable to the interests of the colony that there was little opportunity for criticism on the part of the opposition. The assent of the Governor followed as a matter of course.<sup>38</sup> Under the terms of the bill, the South Australian government was authorized to collect duties on Murray-borne goods according to the tariff of New South Wales, the amount so collected to be divided equally between New South Wales and Victoria.<sup>39</sup> The agreement was expressly limited to a period of twelve months.

This contention put a stop for the moment to the unseemly strife over the question of border duties. Trade was permitted to follow its natural channels along the Murray and across the boundary. The agreement, however, was a mere *modus vivendi*. Upon its expiration the following May, the government of New South Wales proposed that its operation should be continued for another twelve months. In the meantime, the government promised to introduce legislation to put the agreement on a more permanent basis.<sup>40</sup> The other colonies readily agreed to the proposed extension of the convention. But owing to a change in the government in New South Wales<sup>41</sup> the promised legislation was not immediately forthcoming. The question, however, could not be gotten rid of. Mr. Samuel,<sup>42</sup> treasurer in the new administration, drew up a draft agreement for an unlimited extension of the convention, subject to the right of determination on the part of any one of the governments upon six months' notice. The government approved the suggested modification of the convention and forwarded the draft agreement to the other colonies for joint ratification. For some unknown reason a hitch occurred in the negotiations. The neighboring governments paid no attention whatever to this communication. The agreement was never returned to Sydney nor was any explanation offered of their unseemly neglect.<sup>43</sup>

Strange to say these unfortunate complications had no immediate ill effects upon the relations of the colonies. Victoria was not yet ready to press her demands for a redistribution of the Murray duties, so South Australia went on collecting and distributing the duties as though the convention had not expired. For a time the political and economic relations

<sup>38</sup> New South Wales, *Notes and Proceedings of the Legislative Assembly*, 1857, vol. 1:181.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 101.

<sup>39</sup> "An Act to legalize a new arrangement respecting customs duties on goods imported into New South Wales through South Australia by way of the River Murray." 1857.

<sup>40</sup> Speech of Mr. Weekes, treasurer of New South Wales, in the legislative assembly, June 5, 1860. *The Sydney Morning Herald*, June 6, 1860.

<sup>41</sup> The Cowper ministry was defeated on the education policy in October, 1859, and made way for a new administration under the Hon. Wm. Forster.

<sup>42</sup> Hon. Saul Samuel, treasurer in the Forster ministry from October, 1859, to March, 1860.

<sup>43</sup> Speech of Mr. Weekes, in the legislative assembly, June 5, 1860. *The Sydney Morning Herald*, June 6, 1860.

Speech of Mr. Samuel in the legislative assembly, June 28, 1860. *Ibid.*, June 29, 1860.

of the colonies were unusually satisfactory. An era of good feeling had apparently set in. The spirit of coöperation found expression in a series of agreements in respect to matters of common concern such as lighthouses, overland telegraphs, and intercolonial postage.<sup>44</sup> A temporary arrangement for joint contribution to an ocean postal service was brought about, but as the results were by no means satisfactory to New South Wales, the arrangement threatened to break down at any moment.<sup>45</sup> But little or no progress was made towards a settlement of the more important problems of immigration, land policy and an assimilation of tariffs.

Meantime an active campaign in favor of a federal union of the colonies was being carried on in the several colonies,<sup>46</sup> and for a time it seemed as though the enlightened efforts of E. Deas Thompson in New South Wales and Gavan Duffy in Victoria would be crowned with success. Several of the leading newspapers lent their support to the movement.<sup>47</sup> The different legislatures took the subject under advisement.<sup>48</sup> The question of federation momentarily came within the range of practical politics. It promised a solution of some of the most pressing problems of Australian relationships.<sup>49</sup>

But this favorable condition did not long continue. The rising democracy of Australia was narrow minded and untutored. It had no national vision. A petty class of parish politicians arose who appealed to the local self interest of the several colonies. The old spirit of provincial jealousy was fanned into a flame. Colonial legislation took on a more particularistic character, especially in respect to land laws, gold regulations and the tariff.<sup>50</sup>

The fiscal policies of the several colonies were in a state of peculiar vacillation. In South Australia the movement for an assimilation of tariffs had gained in strength. During the session of 1859 the opposition continued their attacks upon the artificial fiscal system of the colony. Several of the members, particularly Mr. Soloman, took an advanced stand in favor of adjusting the tariff to that of Victoria.<sup>51</sup> But this liberal tendency was more than offset by reactionary influences in the other colonies. A serious commercial crisis in Victoria gave rise to a strong agitation for a return to the protective principle of ad valorem duties with a view to promoting the

<sup>44</sup> *The Sydney Morning Herald*, December 22, 1857.

<sup>45</sup> New South Wales. *Votes and Proceedings of the Legislative Assembly*, 1858, vol. 1:371.

<sup>46</sup> Allin, *The Early Federation Movement of Australia*, 318.

Parkes, *Fifty Years in the Making of Australian History*, 2:332.

<sup>47</sup> *The Sydney Morning Herald*, *The South Australia Register* and *The Launceston Examiner*.

<sup>48</sup> Allin, *The Early Federation Movement of Australia*, 323.

Jenks, *The Government of Victoria, Australia*, 366.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 96.

<sup>49</sup> *The Sydney Morning Herald*, December 22, 1857.

<sup>50</sup> *Ibid.*, May 10, 1860.

<sup>51</sup> South Australia, *Parliamentary Debates*, 1859, p. 282.

interests of the laboring classes. The feeling of the general public was reflected in a report of a select committee of the legislature recommending a change in the tariff system.<sup>52</sup> The fiscal policy of New South Wales was likewise "notoriously unsettled," an attractive mark for opportunist politicians. The short-lived Cowper administration of 1856<sup>53</sup> proposed to increase the rate of duties, but the proposal called forth a sharp protest from the Sydney chamber of commerce.<sup>54</sup> The defeat of the government<sup>55</sup> temporarily set the matter at rest. But with the collapse of the gold rushes, the condition of the workingman became deplorable indeed. The legislature was importuned to do something to relieve the congested poverty of the capital. Under the inspiration of Henry Parkes,<sup>56</sup> a committee of the Assembly brought in a report in favor of the adoption of a protective tariff.<sup>57</sup> The Assembly, however, refused to depart from its free trade principles, and the resolutions of the committee were dropped.<sup>58</sup>

In truth the social and economic life of Australia was rapidly changing. The colonies were passing from the pioneer pastoral stage of their existence into the more complicated stage of industrial life. And this evolution reacted on the fiscal policies of the colonies. The comparative uniformity of tariffs, which had at last been attained, rested on a very insecure basis. It was fortuitous rather than real, the combined result of the economic interests of the pastoralists and the far-sightedness of a few genuine statesmen. On the part of the general public there was no adherence to a positive economic principle. Industrial conditions and fiscal necessities alike appeared to demand an abandonment of the principle of free trade.<sup>59</sup> Against this spirit of fiscal unrest the precarious understanding in regard to border duties afforded but a weak protection.

Up to this time in New South Wales the influence of E. Deas Thompson had been sufficiently strong to commit the colony to a general policy of fiscal coöperation. But he was out of touch with the democratic spirit of the day and as a result lost control over the course of local politics.<sup>60</sup> The accession to office of Mr. Charles Cowper in 1857 was more than a popular victory over the great landed interests;<sup>61</sup> it marked the growth of democratic sentiment, the increasing influence of Sydney on public life

<sup>52</sup> Victoria, *Notes and Proceedings of the Legislative Assembly*, 1859-60, vol. 2:237.

<sup>53</sup> The ministry lasted but six weeks.

<sup>54</sup> *The South Australia Register*, October 8, 1856.

<sup>55</sup> The personnel of the ministry aroused opposition and the government was forced to make way for a new administration under Mr. Parker.

<sup>56</sup> Member for East Sydney, subsequently several times premier of New South Wales.

<sup>57</sup> Lyne, *Life of Sir Henry Parkes*, 174.

*Official History of New South Wales*, 314.

<sup>58</sup> Lyne, *Life of Sir Henry Parkes*, 177.

<sup>59</sup> *The Hobart Town Daily Mercury*, November 27, 1860.

<sup>60</sup> Rusden, *History of Australia*, 3:100.

<sup>61</sup> Parkes, *Fifty Years in the Making of Australian History*, 1:116.

and the triumph of provincialistic politics in intercolonial relations. A new school of politicians took charge of the affairs of state. Several of the new political leaders were men of liberal sympathies and of more than average ability.<sup>62</sup> But they were also keen politicians, opportunists in their political outlook, quickly responsive to local public opinion and unfortunately too often indifferent to the demands of Australian nationalism.<sup>63</sup>

To the inhabitants of Sydney, at this time, the Murray River district was a distant possession rather than an integral part of the colony. Victorian capital had opened it up to settlement and its trade was principally with Hobson's Bay. In the absence of railroad communication over the different defiles of the Blue Mountains there was no prospect of diverting much of the Riverina trade from its accustomed channel. From a financial standpoint the Riverina appeared to be an unprofitable appurtenance to the eastern slope. The citizens of Sydney were called upon to bear the major part of the cost of administering an outlying territory from which they derived little immediate advantage. To aggravate the situation, these outlying settlers were free from the customs charges to which the remainder of the colony was subject. They were enjoying the benefits of citizenship in New South Wales without making an adequate contribution to the provincial treasury. They were apparently prospering at the expense of their less fortunate fellow citizens.<sup>64</sup>

Since the agreement of 1855 for the abandonment of border customs houses, unrestricted free trade had existed across the Murray. The unfortunate controversies among the three colonies in respect to traffic up the Murray River had not disturbed the agreement between New South Wales and Victoria in respect to border commerce. At the time of signing the agreement the balance of trade between the two colonies was too small to be considered. But with the growth of the pastoral interests of the Riverina, the volume of trade flowing in and out of the district across the Murray began to assume alarming proportions in the eyes of the merchants and treasury officials at Sydney.<sup>65</sup> To make matters worse from the fiscal standpoint, a large proportion of the imports consisted of articles which were subject to duty under the general tariff of the colony, but which, thanks to the border convention, now escaped scot-free. The treasury of New South Wales was the loser and, owing to trade depression it could

<sup>62</sup> For example, Cowper, Robertson, Martin and Parkes.

<sup>63</sup> Lyne, *Life of Sir Henry Parkes*, 137.

<sup>64</sup> See petition from the Riverina district.

*Official History of New South Wales*, 379.

New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1863-4, vol. 1:264.

<sup>65</sup> Speech of Mr. Weekes, treasurer of New South Wales, in the legislative assembly, June 5, 1860.

*The Sydney Morning Herald*, June 6, 1860.

"The Riverina district," says Mr. Coghlan, "speedily became the property of Melbourne residents either absolutely or by way of mortgage." Coghlan, *The Seven Colonies of Australia*, 1901-2, p. 494.

not well afford to stand the loss. On the other hand the exports of the Murray and Murrumbidgee consisted almost exclusively of livestock and other pastoral products which were not subject to duty under the customs act of Victoria.

For some time past the commercial interests at Sydney had been watching with growing disfavor the discriminatory operations of the Border convention. They were undoubtedly much more jealous of the superior trading facilities of their Melbourne competitors than of the fiscal advantages of the Riverina settlers. But the latter were undoubtedly enjoying special fiscal privileges and the demand went up from Sydney for their repeal. A fortuitous circumstance lent additional force to the demand for a uniform tariff throughout the colony. The discovery of gold in the Snowy River district not far from the Victorian boundary led to a sudden inrush of miners, and a consequent rapid expansion of imports from across the border.<sup>66</sup> The business men of Sydney took fright at this invasion of their territory and clamored for relief.

The Robertson government<sup>67</sup> was quick to seize upon the chance of winning public favor and at the same time replenishing the treasury by repudiating an obnoxious and disadvantageous agreement. On May 23, 1860, a notice appeared<sup>68</sup> in the *Government Gazette* announcing the establishment of customs houses along the border and subjecting to confiscation all dutiable goods brought across the border without due payment of customs. Heretofore, Mr. Cowper explained,<sup>69</sup> New South Wales had refrained from setting up border customs houses owing to the general objection to their establishment, "but the importation of dutiable goods from Victoria into New South Wales has now become of such extent that it is considered that the government would be no longer justified in postponing this measure for the protection of the revenue." Customs officers had accordingly been appointed at Albury and Moama and would be stationed at such other places as might be found necessary. "It is not, however, without extreme reluctance that this step has been taken as it is evident that on so extended a frontier it can not fail to give rise to many difficulties and much annoyance." In conclusion, Mr. Cowper<sup>70</sup> expressed the pious hope that Victoria would coöperate with New South Wales "in devising some common action which while not unnecessarily interfering with a trade convenient to settlers in a district on the border of New South

<sup>66</sup> *The Sydney Morning Herald*, June 6, 1860.

<sup>67</sup> Hon. John Robertson, several times premier of New South Wales. His first ministry held office from March, 1860, to January, 1861.

<sup>68</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 4:679.

<sup>69</sup> *Ibid.*

<sup>70</sup> Hon. Charles Cowper, colonial secretary in the Robertson ministry, March, 1860, to January, 1861, several times premier of New South Wales.

Wales and advantageous to the mercantile community of Victoria may at the same time secure to the colony the revenue to which it is fairly entitled."

This peremptory action of the Sydney executive was the more unjustifiable in view of the fact that no intimation had been previously conveyed to the Victorian government as to an intended change of policy.<sup>71</sup> The latter was taken entirely by surprise.<sup>72</sup> Not until one week later, and then only in response to a telegraphic message of inquiry from the Victorian government, did Mr. Cowper vouchsafe any explanation of "so extraordinary a step."<sup>73</sup> The government of New South Wales arrogated to itself the right of terminating the Border convention at will. True, the agreement of 1860 was no longer legally in effect, but it had been continued in operation at the instance of New South Wales and was morally binding upon the latter until formally set aside after consultation.

The policy of the Sydney government, as was pointed out by the Victorian Commissioner of Trade and Customs,<sup>74</sup> was in striking contrast to the conduct of the Victorian executive in 1857 when the latter upon the imposition of a duty on opium respectfully requested the government of New South Wales to exclude opium from the terms of the agreement in order to prevent the development of a contraband trade in that article across the border.<sup>75</sup> In the present case, moreover, the official notice of the government of New South Wales threatened to work a serious injustice, if strictly interpreted, by imposing duties on goods imported into New South Wales prior to the abrogation of the agreement. Under these circumstances the Victorian government felt itself justified in declining to entertain the proposition of New South Wales.<sup>76</sup> At the same time, it urged the Sydney executive to suspend any further action for the collection of duties until the points at issue between the two governments could be settled by a mutually advantageous arrangement which would obviate the necessity of maintaining costly customs establishments along the river frontier to the great annoyance of settlers and to the encouragement of extensive smuggling operations.<sup>77</sup>

Mr. Cowper maintained<sup>78</sup> that Mr. Pyke had misconstrued the inten-

<sup>71</sup> See memo. of V. Pyke, commissioner of trade and customs.

<sup>72</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 4:681.

<sup>73</sup> *Victoria Hansard*, 1859-60, vol. 6:1289.

<sup>74</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1860, vol. 1:817.

<sup>75</sup> V. Pyke, commissioner of trade and customs in the Nicholson ministry, from October, 1859, to October, 1860.

<sup>76</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 4:681. The difficulty was overcome in this case by the imposition of a similar duty by New South Wales.

<sup>77</sup> *Ibid.*, 682.

<sup>78</sup> This suggestion had been made by Mr. Pyke to the Victorian government and was accepted by his colleagues.

<sup>79</sup> June 14, 1860. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 4:683.

tion of the government of New South Wales in issuing the proclamation. The notice of May 23 was "of general character and fixed no date under which operations under it should commence, this being reserved by this government with a view to open negotiations on the subject with the government of Victoria." He expressly disclaimed any intention of seizing goods imported prior to the proclamation. The immediate object was to make preliminary arrangements so that "after communication with Victoria and with the coöperation of that government . . . some mutual action might be secured" by which "the annoyance and inconvenience of border customs house, might be avoided." The government of New South Wales was concerned only with the protection of its own revenues. With the trade between Melbourne and the Murray River district, it would be impolitic to interfere either with a view to prohibition or restriction. "It results from causes which are beyond the control of customs regulations or legislative enactments, and all this government seeks is that such arrangement will be made as will secure to New South Wales the revenues arising from the consumption of dutiable goods by her own population and within her own boundaries." In conclusion, he again expressed the hope "that the government of Victoria would coöperate with that of New South Wales in devising some plan for joint action by which the revenues justly due to each may be secured."

But unluckily for Mr. Cowper, the subordinate officers of the government were not familiar with the purpose of his diplomacy. In the meanwhile the Collector of Customs at Albury had proceeded to put the notice into effect by seizing all conveyances containing dutiable goods.<sup>79</sup> As a result, traffic across the Murray was practically suspended. The Albury merchants were greatly alarmed; orders were cancelled and goods were stopped in transit in order to avoid loss from the payment of duties.

The government at Sydney was greatly embarrassed by the precipitate action of its own official and at once issued instructions that the goods seized should be given up.<sup>80</sup> It refused, however, to revoke the notice of May 23, though strongly urged by Mr. Hay to do so; but at the same time it promised that the proclamation would not be put into effect until full opportunity had been given to Victoria to confer in regard to a settlement.<sup>81</sup> The government likewise declined to withdraw the customs officials from the border for fear that such action might convey the impression to the Victorian government that New South Wales was faltering in its course of action. The officers were instructed to collect statistics of the border traffic so that the government might have trustworthy data upon which to base its claims against

<sup>79</sup> June 14, 1860. Victoria, *Notes and Proceedings of the Legislative Assembly*, 1859-60, vol. 4:683.

<sup>80</sup> *The Sydney Morning Herald*, June 13, 1860.

<sup>81</sup> *Ibid.*, June 14, 1860.



Victoria.<sup>82</sup> In short, the government determined to maintain its customs establishment in order to save its own face and as a means of bringing pressure to bear upon the Victorian legislature.

The Victorian executive was anxious to avoid a breach with New South Wales and accepted the assurances of Mr. Cowper at their full face value. It was "presumed that no further action would be taken by customs officers until the conclusion of negotiations." In view of these circumstances the government declared that<sup>83</sup> "any proposition of the New South Wales government would receive most careful consideration."

In New South Wales the policy of the government had aroused the strongest opposition among the border settlers, and Mr. Hay<sup>84</sup> seized the first occasion<sup>85</sup> to bring their grievances to the attention of the Assembly. "The government," he declared,<sup>86</sup> "should be cautious how they proceeded to exact payment of double duties from the southern residents." The establishment of border customs houses was a retrograde step. To limit importations to two ports would seriously restrict the growth of the district, while on the other hand to multiply the number of customs offices would not prevent wholesale smuggling, but would result only in harassing honest traders. "As to the claim that the merchants of Melbourne were obtaining the trade of the Kiandra diggers, that could never take place on account of the natural obstacles which existed, except through the incapacity of the Sydney traders." The time had come when the legislature should look to the good of the whole country rather than to the interests of Sydney alone. As a result of the present narrow-minded policy, an agitation for the separation of the Riverina was again springing up. He foresaw no difficulty in making an amicable arrangement with Victoria. But such an arrangement would not effect a permanent settlement. The colonies, he concluded, should follow the example of Germany in establishing a zollverein which would prepare the way for a national union of the Australias in the event of their separation from Great Britain.

The Colonial Treasurer<sup>87</sup> defended<sup>88</sup> the policy of the government on the ground of financial necessity. Even apart from the Kiandra diggings, he claimed, the government would have found it necessary to protect its revenues which were suffering to the extent of £40,000 through importations from Victoria, nineteen twentieths of which passed through Albury and Moama. This extensive trade could no longer be carried on at the

<sup>82</sup> Speech of Mr. Weekes, colonial treasurer in the legislative assembly, November 7, 1860.

*The Sydney Morning Herald*, November 8, 1860.

<sup>83</sup> June 25, 1860. Victoria, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 4:683-4.

<sup>84</sup> Hon. John Hay, member for the Murray district, subsequently president of the legislative council.

<sup>85</sup> June 5, 1860.

<sup>86</sup> *The Sydney Morning Herald*, June 6, 1860.

<sup>87</sup> Hon. Elias C. Weekes.

<sup>88</sup> *The Sydney Morning Herald*, June 6, 1860.

expense of New South Wales. Let Victoria arrange a system of drawbacks if she desired to retain the Riverina trade. The government would try to make its regulations as little vexatious as possible to the border settlers whom it did not wish to subject to double duties. "But," he concluded, "nothing short of a uniform tariff like a zollverein would settle this vexatious question." As Victoria "had protected her revenue by customs and police on her side of the Murray, she could not complain if New South Wales carried out a like policy which was not antagonistic to her."

In the course of the debate almost all the speakers expressed sympathy with the Riverina settlers but there was the widest variation of opinion as to what should be done to relieve their difficulties. Equally irreconcilable were the views of the members in respect to the relative advantage to New South Wales of border tariffs and freedom of intercolonial trade.<sup>89</sup> Mr. Asher advocated the granting of bonding privileges, but this was regarded as too expensive by other members of the House. A customs union of the colonies found favor in certain quarters of the Assembly, notwithstanding the fact<sup>90</sup> that an equalization of the tariffs would have been more favorable to Melbourne than to New South Wales owing to the greater cost of carriage within the latter. But while it was generally admitted that a zollverein would be the ultimate solution of the problem, the majority of the members were not prepared to surrender the immediate claim of New South Wales to the border duties from Victoria. "Customs duties," Mr. Samuel<sup>91</sup> declared, "were a nuisance, but people soon got accustomed to them, and when established the neighboring colonies would soon find it advantageous to make some arrangements" which would protect the revenues of New South Wales. The opinion was generally expressed that the measures of the government would compel Victoria to come to an agreement, Mr. Dixon going so far as to allege that the threatened establishment of border customs was "the only way of reaching federation."

But the conciliatory assurances of the Colonial Treasury were not sufficient for Mr. Hay. On June 26, 1860, he moved<sup>92</sup> "that the establishment of a customs house and preventative system along an internal frontier line is especially inconvenient and objectionable as applied to the colonies of New South Wales and Victoria, the inhabitants of which speak the same language, are engaged in the same occupations, and are subjects of the same sovereign." He again pleaded for<sup>93</sup> a liberal-minded, dispassionate

<sup>89</sup> Compare speeches of Messrs. Asher and Campbell against border customs with those of Messrs. Samuel and Dickson on the necessity of collecting revenue.

<sup>90</sup> See speech of Mr. Campbell.

<sup>91</sup> Hon. Saul Samuel, a leading politician of New South Wales and later agent-general of that colony in London.

Mennell, *Dictionary of Australasian Biography*, 401.

<sup>92</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 1:793. *Official History of New South Wales*, 316.

<sup>93</sup> *The Sydney Morning Herald*, June 27, 1860.

consideration of the question with a view to the promotion of the general welfare and prosperity of all the colonies. The experience of Germany had shown the advantages of a customs union whereas the failure of the American confederation of 1781 through lack of a uniform tariff should serve as a warning to the Australian colonies. He admitted that New South Wales was entitled to the duties she claimed but at the same time it was necessary to consider whether the assertion of these rights might not entail greater positive injury than it would produce benefit, whether in fact these rights were "worth enforcing and whether they could be enforced." The inhabitants of the Riverina were already suffering grave disabilities owing to the absence of proper judicial and administrative facilities. To cut them off from their natural market at Melbourne would not only depreciate the value of their lands but would force them to seek annexation to Victoria. He questioned the legality of the recent proclamation since "every word of the customs act applied to importations by sea and could not fairly be interpreted to apply to inland imports." But if on the other hand, the existing law covered the case, then the action of the government in setting aside the collection of duties was clearly illegal. The attempt to set up a customs frontier would retard progress, engender antagonisms and separate the colonies into hostile camps. The policy of the government should be "one people united for all purposes."<sup>94</sup>

The reply of Mr. Weekes<sup>95</sup> was pitched in a high patriotic key. He "objected to the motion at this moment since by showing a division of opinion it weakened the government in its dealings with Victoria." The real question, he contended, "was not whether double duties should be enforced but who should receive the one duty which ought to be levied?" Victoria was now supplying the Murray district up to the Yass and was appropriating the duties which properly belonged to New South Wales. A *zollverein*, he now maintained, was practically impossible;<sup>96</sup> even an assimilation of tariffs by common consent would be extremely difficult to attain, owing to "the difference in wants and habits" of the several colonies. He minimized the danger of the dismemberment of the colony. The talk of separation in the Riverina was directed towards independence for that district and not towards a union with Victoria. It was the duty of the Murray settlers to join with their fellow citizens in protecting the revenues of the colony. He held out the hope of a settlement of the embroglio since Victoria was manifesting a conciliatory spirit. "If she could hold on to the trade and set aside the duties for New South Wales the thing could be arranged."

The ensuing debate covered very much the same ground as the previ-

<sup>94</sup> *Ibid.*, June 29, 1860.

<sup>95</sup> Hon. Elias C. Weekes, colonial treasurer in the first Robertson ministry, from March, 1860, to January, 1861.

<sup>96</sup> In the previous debate on June 6, 1860, Mr. Weekes had expressed a contrary opinion.

ous discussion.<sup>97</sup> Several of the speeches, however, were largely concerned with the closely related question of the separation of the Riverina. The ministerialists vigorously supported the policy of the "big stick." The Assembly, according to Mr. Arnold, ought "to strengthen the hands of the government in its struggle against the antagonistic influence of Victoria." Among the critics of the government, opinion was as much divided as ever. Messrs. Windeyer and Martin<sup>98</sup> questioned the legality of the recent proclamation. It appeared to Mr. Samuel that "it would be best to compound with the Victoria government for the estimated amount of duties." Several of the members favored a uniform tariff as the only solution of the difficulty. "The customs officers," Mr. Campbell declared, "would not overawe Victoria while they would irritate our border settlers." He objected to the suggested system of compounding duties for a fixed sum. "There were three alternatives: (1) by improving transportation to the border to compete with Melbourne; (2) by a preventative system; (3) by a federal system by which the tariffs would be assimilated, the duties collected to be divided according to population." The first two alternatives were in his judgment impossible; the last had been successful in Germany and should be adopted in Australia. "But," he concluded, "so long as the present deplorable jealousy existed between the colonies," no such arrangement was possible here. Dr. Lang<sup>99</sup> seized the opportunity to bring forward his favorite scheme for a federal union of the colonies. But this proposal did not meet with general favor. "As to a political federation," said Mr. Gordon, "he did not believe that that could ever be carried out nor indeed ought to be attempted."

The more belligerent members of the opposition severely arraigned the "rash and objectionable manner" in which the right of collecting duties had been asserted and demanded the withdrawal of the proclamation.<sup>100</sup> The government, Mr. Forster<sup>101</sup> charged, had taken "a narrow metropolitan view" of the situation, which had created a feeling of annoyance in Victoria as well as along the border. The Riverina, in the opinion of Mr. Asher, had a stronger claim to separation than Queensland and "he would prefer to belong to Victoria than to New South Wales." As a result of

<sup>97</sup> *The Sydney Morning Herald*, June 29, 1860.

<sup>98</sup> "There were," Mr. Martin maintained, "two kinds of customs acts, those that imposed duties and those that merely regulated the customs department. The government in the proclamation had jumbled them together. Duties might be payable by law which still could not be enforced under the Regulation acts. There was no doubt 19 Victoria, no. 17, imposed certain duties whether the goods were introduced by sea or land. The question then was whether they could be enforced as proposed and he held that they could not. There was but one way of enforcing them and that was by action against the parties and that was impracticable. The government ought to have asked parliament for an act for the purpose."

<sup>99</sup> A prominent Presbyterian clergyman, member for Sydney West.

<sup>100</sup> See speeches of Messrs. Plunkett, MacLeay, Asher and Foster.

*The Sydney Morning Herald*, June 29, 1860.

<sup>101</sup> Hon. Wm. Forster, former premier of New South Wales and later agent-general of the colony.

the government's policy an agitation had already arisen in Victoria to retaliate on New South Wales by the imposition of a stock tax. But the majority of the members of the Assembly were not ready to support a motion which was practically equivalent to a vote of want of confidence. Many of them did indeed deplore the precipitate action of the government, but they were determined that New South Wales should not be robbed of her just dues.<sup>102</sup> If Victoria would voluntarily come to an equitable arrangement, so much the better, but if she refused to satisfy the legitimate demands of New South Wales, then they were prepared to back up the government in levying customs duties along the border. Upon a division Mr. Hay's motion was defeated by eleven to twenty-three.<sup>103</sup>

But the subject was not allowed to drop. On consideration of the estimates, a few months later,<sup>104</sup> Mr. MacLeay raised the question again on a motion to strike out the appropriation for a sub-collector at Albury.<sup>105</sup> The customs officers, the Colonial Treasurer explained, had not yet entered upon the active exercise of their functions, pending the negotiations with Victoria. They had been instructed in the meantime to collect statistics so that the government might have trustworthy data upon which to base its claims. To remove these officers would give Victoria the impression that the government did not intend to follow up its claims, which it certainly was resolved to do. The Fabian policy of the government did not please the extremists on either side. The protectionist members of the House<sup>106</sup> condemned the government for not proceeding with the collection of duties while the supporters of the motion complained<sup>107</sup> that no reasonable offer had been made to Victoria for a settlement of the difficulty. Dr. Lang revived the idea of a zollverein, but the suggestion met with little favor from Mr. Hay. The motion to strike out the item was defeated by a large majority, thirty-four to nine.<sup>108</sup>

<sup>102</sup> See speeches of Samuel, Dickson and Gordon.

<sup>103</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 1:793.  
*The Sydney Morning Herald*, June 29, 1860.

*Official History of New South Wales*, 317.

<sup>104</sup> November 7, 1860.

<sup>105</sup> *The Sydney Morning Herald*, November 8, 1860.

<sup>106</sup> Messrs. Dickson and Hoskins.

<sup>107</sup> See speeches of Asher, Windeyer, Parkes and Foster.

<sup>108</sup> *The Sydney Morning Herald*, November 8, 1860.

## CHAPTER VIII

### TARIFF ASSIMILATION

In the meantime an important change had taken place in the fiscal system of South Australia. The mercantile community at last came to realize that the system of ad valorem duties stood in the way of their capturing a large share of the Murray River trade. During the session of 1859, the opposition continually pressed for an assimilation of tariff to that of Victoria in whole or in part.<sup>1</sup> The Hanson government finally gave way. At the opening of the legislature, April 27, 1860, Governor McDonnell announced<sup>2</sup> a new tariff policy. "You will be invited to consider the expediency of such an alteration of the existing customs duties as by assimilating our tariff to that of the neighboring colonies may enable us to dispense with the present ad valorem duties without loss to the revenue." In the debate on the address in reply the policy of the Ministry met with general support though the government did not escape an occasional gibe for its apparent change of front.<sup>3</sup> "The general opinion among mercantile men," said Mr. Strangways,<sup>4</sup> "was that an assimilation of tariffs and the abolition of ad valorem duties would be highly beneficial, particularly as regarded the Murray River trade."<sup>5</sup> And in that opinion the House concurred. Soon after the Ministry was defeated and made way for the Reynolds administration.<sup>6</sup>

The new government at once proceeded to carry out the fiscal policy of the late ministry. On May 22, 1860, in presenting the budget, Mr. Reynolds moved<sup>7</sup> "That it is desirable to remove the ad valorem duties." The Colonial Treasurer<sup>8</sup> attacked the system of ad valorem duties as objectionable in principle, costly in collection and injurious to the development of the Murray River trade. Under the existing tariff the Adelaide merchants could not compete with Melbourne for the Riverina trade. The rate of taxation in the several colonies varied greatly; in Victoria it was £3 per head, in New South Wales 35s., and in South Australia 25s. 6d. These

<sup>1</sup> South Australia, *Parliamentary Debates*, 1859, p. 282.

<sup>2</sup> South Australia, *Votes and Proceedings of the Legislative Council*, 1860, vol. 1:2.

<sup>3</sup> South Australia, *Parliamentary Debates*, 1860, p. 19.

<sup>4</sup> Hon. Henry B. F. Strangways, member for Encounter Bay, and later premier of the colony.

<sup>5</sup> Mr. Strangways expressed the opinion that the government had only adopted this policy because of the resignation of the late treasurer, Captain Hart, who had warmly supported the principle of assimilation.

<sup>6</sup> Mennell, *Dictionary of Australasian Biography*, Hon. Thomas Reynolds, 387.

<sup>7</sup> South Australia, *Parliamentary Debates*, 1860, p. 83.

<sup>8</sup> Mr. Reynolds held the portfolio of treasurer in the government of which he was the head. The ministry held office from May, 1860, to October, 1861.

differences rendered it difficult to bring about a uniformity of tariffs. But the present customs bill was a step in that direction, for on several articles the duties were assimilated to those of Victoria. The policy of the government met with but little opposition. Almost all the speakers clearly recognized the necessity of abolishing the system of ad valorem duties in the interests of the Murray trade. Several of the members favored an assimilation of the tariffs of the three colonies, but some were doubtful of the possibility of making up the loss of revenue which it would entail. The free trade members of the House were much concerned over the dangerous growth of protectionist sentiment in Victoria which, they feared, might react unfavorably upon the relations of the colonies. Mr. A. Blyth<sup>9</sup> alone ventured to oppose the motion which was carried without a division.<sup>10</sup> On the third reading of the Customs bill, there was stronger opposition, but the bill was adopted by a good majority, twenty to nine.<sup>11</sup> The bill was piloted safely through the upper house and duly received the Governor's assent.<sup>12</sup> South Australia had at last brought her fiscal policy into line with that of the neighboring states.

The movement in South Australia for an assimilation of tariffs was synchronous with the renewed efforts of Gavan Duffy to revive interest in his national ideal of an Australian federation.<sup>13</sup> In compliance with a report of a select committee of the legislative assembly recommending the holding of an intercolonial conference on the question of federation,<sup>14</sup> the Chief Secretary of Victoria requested the neighboring governments to lay the matter of a federal union before their respective legislatures.<sup>15</sup> The proposal reached South Australia at a favorable moment. The Hanson government was sympathetic towards a closer association of the colonies though by no means ready to commit itself to the plan of a federal union.<sup>16</sup> The resignation of the government<sup>17</sup> prevented the fulfillment of its promise to submit the question to parliament, but the new administration took the matter up on its own account and proceeded to deal with it along somewhat independent lines.

On July 17, 1860, Mr. Waterhouse<sup>18</sup> submitted to the legislative council a series of resolutions<sup>19</sup> of the nature of a counter proposal to the recent

<sup>9</sup> Formerly commissioner of public works in the Hanson ministry.

<sup>10</sup> South Australia, *Parliamentary Debates*, 1860, p. 83.

<sup>11</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1860, vol. 1:70.

<sup>12</sup> *Ibid.*, 111. July 18, 1860.

<sup>13</sup> Allin, *The Early Federation Movement of Australia*, 381.

<sup>14</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1859-60, vol. 1:17.

<sup>15</sup> *Ibid.*, 561.

<sup>16</sup> *Ibid.*, 562.

<sup>17</sup> The Hanson ministry resigned May 9, 1860, after having held office for the exceptionally long period of over thirty-one months.

<sup>18</sup> Mr. Waterhouse was colonial secretary in the Reynolds cabinet.

<sup>19</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1860, vol. 1:35.

Allin, *The Early Federation Movement of Australia*, 392.

overtures of Victoria: "(1) That while in the opinion of this Council the time has not yet arrived for a federal union of the Australian colonies for legislative purposes, it is nevertheless extremely desirable that these colonies should be more closely united than they are at present and that all legislation calculated to widen existing severances should be remedied. That to these ends in order to facilitate an eventual federal union it is desirable: '(a) To establish a customs union based on a division of the customs receipts on a scale proportionate to the population and whereby provision shall be made that all articles of colonial produce not being spirits or tobacco shall pass intercolonially free of duty but leaving to each colony the apportionment, control, and payment of its own staff of customs officers.' Subsequent clauses provided for reciprocal naturalization and for the erection of a general court of appeal for all the colonies, a subject which had already received the serious consideration of both Chambers;<sup>20</sup> "(2) that in order to give effect to the above resolutions it is desirable that negotiations be entered into with the adjacent colonies with a view to the appointment of delegates who shall meet in conference and who shall have full power of arranging all details subject only to the eventual sanction of the legislatures of the several colonies."

"The colonies," said Mr. Waterhouse,<sup>21</sup> "were not yet ripe for a federal union as their usages were too diverse, their mutual jealousies too great, and their interests too diverse." But the time had arrived for a closer bond of union than then existed. The best interests of all would be promoted by removing the existing sources of discord. Foremost among these were the diversity of tariffs and the establishment of border customs, the result of which had been not only to retard the development of the country but also to occasion "a feeling of alienage between the colonies." The present resolutions were based upon the beneficial operations of the German zollverein both commercially and politically. They did not go as far towards a federal union as Victoria desired but they were at least a step in that direction. The establishment of a central government, he concluded, must follow and not precede the construction of railroad communication between the colonies.

The resolutions were keenly contested.<sup>22</sup> There was pronounced opposition on the part of a majority of the Council to any scheme for a federal assembly and an unwillingness on the part of some of the members to coöperate with the other colonies in matters of general concern.<sup>23</sup> The cavalierly conduct of Victoria towards her weaker sister had stirred up a

<sup>20</sup> South Australia, *Parliamentary Debates*, 1860, pp. 154, 285, 405.

<sup>21</sup> *Ibid.*, 405.

Allin, *The Early Federation Movement of Australia*, 392.

<sup>22</sup> South Australia, *Parliamentary Debates*, 1860, pp. 406-8.

<sup>23</sup> Allin, *The Early Federation Movement of Australia*, 394.



feeling of resentment towards that colony.<sup>24</sup> The overtures of Victoria were looked upon with suspicion. It was unfortunate indeed that the economic proposals of the government were popularly associated with the federal program of the Victoria legislature. Treaties of commerce, according to Mr. Morphett, were injurious in restricting the liberty of a country to frame its tariff according to its own revenue requirements. Since the abolition of ad valorem duties, a customs union was no longer necessary in order to promote intercolonial trade. Under the new tariff not a single article, the produce of the neighboring colonies, was to be found on the dutiable list. South Australia had set the other colonies an excellent example. Let them reciprocate. Mr. Younghusband objected to a customs union on mercantilistic grounds.<sup>25</sup> From a practical business standpoint a commercial union would be unwise. One of the parties to the agreement would reap the chief advantage and the others would naturally object. The particularistic spirit of the Council, however, came out most clearly in the speech of W. Scott. He bitterly assailed<sup>26</sup> the unfriendly policy of the sister colonies, particularly Victoria. A customs union would subject South Australia to the will of a stronger and wealthier state. "He would rather see South Australia free than chained to the golden chariot of Victoria."

Practically the whole burden of defending the resolutions fell upon the Colonial Secretary, but one member<sup>27</sup> of the Council coming to his support. The purpose of the resolutions, Mr. Waterhouse claimed, had been misunderstood; it aimed to promote "united action and not federal action." The question of border customs would inevitably become more acute unless the tariffs of the colonies were assimilated. He was assured that the revenues of South Australia would not suffer from an equitable distribution of customs duties according to population. On the contrary, South Australia stood to gain, inasmuch as the larger proportion of women and children in her population lowered her per capita consumption as compared with that of the other colonies. The Colonial Secretary, however, was not prepared to make a fight on behalf of the resolutions, as a majority of the Council were manifestly hostile or indifferent.<sup>28</sup> He had "discharged his duty in bringing forward the resolutions"<sup>29</sup> and would accordingly withdraw them. Several of the members urged that the resolutions be left over for further consideration, but the Colonial Secretary was apparently only too

<sup>24</sup> South Australia had had unfortunate differences with the sister colonies over postal and telegraphic communications and the transfer of the Western territory, in addition to the Murray River and South-eastern border duties controversies.

<sup>25</sup> South Australia, *Parliamentary Debates*, 1860, p. 407.

<sup>26</sup> *Ibid.*

<sup>27</sup> Hon. G. F. Angas, one of the founders of South Australia.

<sup>28</sup> Allin, *The Early Federation Movement of Australia*, 395.

<sup>29</sup> The Colonial Secretary had been requested by Mr. Younghusband to lay the Victoria correspondence before the Council.

glad to let them go by the board. An attempt to revive the resolutions somewhat later<sup>30</sup> was met by an emphatic declaration from the Colonial Secretary that he did not anticipate any practical results would follow a reconsideration.<sup>31</sup> The untimely fate of the resolutions in the Council apparently dissuaded the government from taking the matter up in the Assembly; and the members of the Assembly were not sufficiently interested in the subject to bring it up for consideration on their own initiative. For the time being the question was dropped.<sup>32</sup>

Meanwhile the fiscal policy of Victoria was undergoing material modifications. The tariff of 1852, as we have seen, had abolished the system of ad valorem duties and in lieu thereof had placed duties on a few articles of general consumption which were not necessities of life. The tariff of 1854 had maintained the same principle but had somewhat extended the list of articles upon which duties were chargeable.<sup>33</sup> For a time this system worked most successfully, both from an economic and fiscal standpoint. But with the collapse of the gold boom, a serious economic crisis took place. Thousands of idle miners wandered aimlessly over the country or flocked into the cities looking for work. But work was not to be found.<sup>34</sup> The vast public domain which ought to have absorbed all the surplus labor had passed into the hands of a few great squatters.<sup>35</sup> The folly of the British government together with the indifference of the colonial authorities had wasted the inheritance of the nation. A landed aristocracy was created in the colony. The people were excluded from their own estate. The pastoral interests of the colonies required but a few scattered laborers. From the very nature of the case the squatters were not friendly towards the policy of free agricultural development. They refused to throw open the land to settlement. There was no place on the soil for the luckless miners.<sup>36</sup>

It was equally futile for them to turn to the cities for relief. There were only a few feeble manufacturing plants in the colony, chiefly connected with the mining industry and these could give employment to but a mere handful of men.<sup>37</sup> Melbourne and the other chief towns of the colony

<sup>30</sup> September 28, 1860.

<sup>31</sup> Allin, *The Early Federation Movement of Australia*, 394.

<sup>32</sup> *Ibid.*, 395.

<sup>33</sup> Report on the tariff of the colonies. Victoria, *Notes and Proceedings of the Legislative Assembly*, 1859-60, vol. 1:785.

<sup>34</sup> Pratt, *David Syme, the Father of Protection in Australia*, 116. In the years 1858-9 more than 45,000 emigrated from Victoria.

<sup>35</sup> Jenks, *The Government of Victoria*, ch. 20, The Land Question.

<sup>36</sup> Pratt, *David Syme*, ch. 4, The Land Struggle.

See also Turner, *History of Victoria*, 2:115.

<sup>37</sup> Jenks, *The Government of Victoria*, 221.

The number of persons returned as employed in commerce, trade, or manufacture was almost 53,000 in 1854.

Victoria, *Notes and Proceedings of the Legislative Assembly*, 1855-6, vol. 4:237.

were soon overwhelmed with men looking for work. But there was nothing for them to do. Meanwhile imports were pouring into Hobson's Bay from England and abroad to the value of £15,000,000 a year.<sup>38</sup> Victoria was exchanging her gold, wool, hides, and tallow for foreign products, many of which she could under more favorable circumstances have produced just as well at home. The importers like the squatters were growing rich. To the unfortunates out of work it almost seemed as though a favored few were thriving off the miseries of their fellow countrymen. It is little wonder that the demand arose from the unemployed for the encouragement of industries within the colony as a means of relieving the labor situation. The protective policy found an able and most zealous advocate in David Syme,<sup>39</sup> editor and proprietor of the *Age*, the leading democratic organ of the colony. Why, it was asked, should the colony remain any longer dependent upon the mining and pastoral interests? It ought, on the contrary, to develop a diversified economic life, a national self-sufficiency which would render it independent of outside industries.

The legislators found themselves face to face with an economic situation where the doctrinaire free-trade formulas did not work successfully. As usual, facts proved stronger than theory.<sup>40</sup> During the session of 1859-60, a select committee which had been appointed to inquire into the subject of the tariff, reported in favor of a revision of the tariff for the purpose of promoting the interests of the industrial class.<sup>41</sup> In November, 1860, Mr. Heales,<sup>42</sup> a strong protectionist, formed a new administration with a democratic program which included the free admission of raw materials and a tax upon manufactured goods, especially luxuries. But the legislature was not yet weaned away from its free trade principles. The following year the government was defeated on its fiscal policy and was obliged to make way for the O'Shanassy administration.<sup>43</sup> The new premier, a staunch free trader,<sup>44</sup> fell back upon the old policy of an assimilation of colonial tariffs. At the same time, however, he found it necessary for revenue purposes to extend considerably the customs schedule. The policy of the government was clearly set forth in the speech of the Governor at the prorogation of the

<sup>38</sup> Pratt, *David Syme*, 116.

<sup>39</sup> *Ibid.*

Chomley, *Protection in Canada and Australia*, 127.

<sup>40</sup> Report on the tariffs of the colonies. Victoria, *Notes and Proceedings of the Legislative Assembly*, 1859-60, vol. 1:785.

<sup>41</sup> Victoria, *Notes and Proceedings of the Legislative Assembly*, 1859-60, vol. 2:237.

<sup>42</sup> Hon. Richard Heales, chief secretary of Victoria, November, 1860, to November, 1861.

Mennell, *Dictionary of Australasian Biography*, 222.

Turner, *History of Victoria*, 2:85.

<sup>43</sup> Mennell, *Dictionary of Australasian Biography*, 222.

The speech of the Governor at the opening of parliament September 3, 1861, announced a change in the tariff with a view to the development of local industries.

Victoria, *Notes and Proceedings of the Legislative Assembly*, 1861-2, vol. 1:7.

<sup>44</sup> Mennell, *Dictionary of Australasian Biography*, 359.

The O'Shanassy administration held office from November, 1861, to June, 1863.

legislature in 1862.<sup>45</sup> "In the imposition of new taxes the object sought to be attained has been the assimilation of the tariff as nearly as possible to those of the neighboring colonies. This course has been adopted with a view to facilitate the establishment of a uniform tariff through Australia and to avoid anything which was likely to interfere with the operation of commerce or to deprive Victoria of the position she now occupies as the entrepot for the trade of these portions of Her Majesty's domains."

For some time past the people of Tasmania had been anxiously following the course of events across the strait. In 1852 the island legislature had abolished the system of ad valorem duties. This liberal policy had been followed by a marked development of trade with the mainland. Suddenly, however, there was a serious falling off in the trade of the colony<sup>46</sup> and the government found it necessary to provide for increased taxation on many of the chief necessities of life and to lay heavy hands upon inter-colonial trade in the form of a duty on sheep and cattle from the adjacent colonies and of extra tonnage and wharfage charges. The proposals of Mr. Chapman<sup>47</sup> called forth a vigorous protest from the mercantile and industrial classes.<sup>48</sup> Every new feature of the budget was called in question. The duties on necessities were condemned as imposing an undue burden on the working class; the taxes on colonial produce were denounced as a violation of the principle of free trade and an incitement to retaliation against the exports of Tasmania; the wharfage dues were decried on general principles as a vexatious interference with commerce. Owing to the pressure of public opinion the government was obliged to modify its proposals in regard to the taxation of necessities and the imposition of wharfage and tonnage dues, but it retained the other items of the budget including the intercolonial duties.<sup>49</sup> An unseemly squabble with the upper chamber brought about the resignation of the Cabinet a few days later.<sup>50</sup> The Gregson ministry<sup>51</sup> attempted to get around the difficulty by suggesting the holding of an intercolonial conference for the purpose of considering the question of "the consolidation of tariffs, the equalization of weights and measures and other matters affecting their common welfare."<sup>52</sup> But the defeat of the government a few days later prevented any steps being taken to carry out this program.<sup>53</sup>

<sup>45</sup> Victoria, *Notes and Proceedings of the Legislative Assembly*, 1861-2, vol. 1:381.

<sup>46</sup> Coghlan, *The Seven Colonies of Australasia*, 170.

<sup>47</sup> Hon. Thomas D. Chapman, colonial treasurer in Champ administration, November, 1856, to February, 1857.

<sup>48</sup> *The Launceston Examiner*, January 17, 1857.

<sup>49</sup> *Ibid.*, January 19, 1857.

<sup>50</sup> The legislative assembly claimed the right of importing and collecting customs duties upon its own resolution without reference to the upper chamber.

<sup>51</sup> Hon. Thomas G. Gregson, colonial secretary, February, 1857, to April, 1857.

*The Launceston Examiner*, March 28, 1857.

The government was defeated April 25, 1857.

The local legislature could not get away from the fiscal question. There was a sharp conflict of interest between the agricultural and mercantile communities.<sup>54</sup> The latter continued to protest against the system of *ad valorem* duties, but their protests were overborne by the superior influence of the farmers who objected even more strongly to the alternative suggestion of a direct property tax and who were not unmindful of the incidental advantage they enjoyed from the imposition of duties on competing agricultural products. During the sessions of 1859 and 1860 the question of a revision of the tariff became more acute.<sup>55</sup> In the latter year a joint tariff committee was appointed to consider the matter of protective duties, but the committee failed to report.<sup>56</sup> At the same time, an effort was being made to interest the legislature in the movement for a federation of the Australian colonies. On August 20, 1860, a motion was presented by Mr. Miller for the summoning of a federal conference to consider among other subjects the question of "the assimilation as far as such a measure may be practicable, of the various colonial tariffs and the settlement of other mercantile questions possessing a common interest for all the Australias"; but the motion was by leave withdrawn.<sup>57</sup>

Outside the legislature the question was as keenly contested as within. The mercantile community had been anxiously watching the rapid growth of protectionist sentiment in Victoria. The fiscal policies of the other colonies were likewise in a state of vacillation. The *Hobart Town Daily Mercury* clearly perceived<sup>58</sup> the danger of the situation; unless an intercolonial agreement were speedily reached, the financial necessities of the several treasuries, the pressure of special interests and the rivalries of jealous capitals would bring about artificial restrictions upon trade most injurious to the interests of the whole group. "It behooved the public men of Australia to take a comprehensive and liberal view of the position of the colonies as one in interest and possessing mutual rights. Of these rights the most indefeasible is the title to commercial equality as between dependencies of the crown forming a national group of settlements."<sup>59</sup> Although many years must elapse before the colonies could work out their ultimate destiny in a federal union there was nothing to prevent them from at once agreeing upon the basis of a uniform customs system. Tasmania, it urged, was in a most favorable position owing to its political disinterestedness and more stable administration to take the lead in calling a conference for the settlement of this question.

<sup>54</sup> Allin, *The Early Federation Movement of Australia*, 374.

<sup>55</sup> Tasmania, *Journal of the House of Assembly*, 1859, vol. 4, nos. 13, 21, and 40.

*Ibid.*, 1860, vol. 5, nos. 22, 61, 96, 97.

<sup>56</sup> *Ibid.*, 1860, vol. 5.

<sup>57</sup> *Ibid.*, 1860, vol. 5:150.

<sup>58</sup> See editorials, December 8, 10, 12, 1860.

<sup>59</sup> *The Hobart Mercury*, December 12, 1860.

These promptings were not without effect, for on September 19, 1861, the Assembly resolved<sup>60</sup> on motion of Mr. Hill that "an address be presented to the Governor praying him to cause communication to be opened up with the other Australian governments urging on them the importance of immediate steps being taken to establish a federal assembly for the consideration and settlement of all fiscal and other questions affecting the prosperity and welfare of the whole group." The Council readily concurred in the address;<sup>61</sup> and the government expressed its willingness to initiate measures to carry out the object in view.<sup>62</sup> Shortly after<sup>63</sup> the Colonial Secretary<sup>64</sup> notified the Melbourne government of the recent efforts of the Tasmania legislature to revive the question of federation and expressed the hope that the Victorian government would persevere in its efforts to bring about a closer bond of union among the colonies.<sup>65</sup> But Mr. O'Shanassy was not able to hold out any prospect of immediate action though he spoke more hopefully of future consideration by parliament.<sup>66</sup>

In the meantime the government of South Australia had been led to take up the question of a customs union in real earnest. A new political issue had arisen in the demand for free distillation on the part of the wine-growing interests.<sup>67</sup> The government, realizing the far-reaching consequences of such a policy, hesitated to accede to the demand.<sup>68</sup> Free distillation would not only have seriously impaired the revenues of the colony but would also have involved a reversal of its fiscal policy and the resumption of ad valorem duties to make up for the loss of excise duties. And the result could not have been limited to South Australia; the other colonies would have been almost equally affected as they also derived a considerable proportion of their revenue from the tax on spirits. The government did not wish to antagonize the sister colonies by a revolutionary change of policy. At the same time it was necessary to do something for the farmers and horticulturists of the state. There had been overproduction in the wine-growing industry. The local market could absorb but a small part of the

<sup>60</sup> Tasmania, *Journal of the House of Assembly*, 1861, vol. 6:137.

<sup>61</sup> Tasmania, *Journal of the Legislative Council*, 1861, vol. 6:96.

<sup>62</sup> *The Hobart Mercury*, September 20, 1861.

See statement by Mr. Chapman in house of assembly, January 7, 1862. Tasmania, *Journal of the House of Assembly*, 1861, vol. 6:254.

<sup>63</sup> May 6, 1862.

<sup>64</sup> Hon. William Henty, colonial secretary in Chapman ministry from August, 1861, to November, 1862.

<sup>65</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1861-2, vol. 1:779.

Tasmania, *Journal of the House of Assembly*, 1862, vol. 8, no. 15.

<sup>66</sup> *Ibid.*

Allin, *The Early Federation Movement of Australia*, 398.

<sup>67</sup> *Ibid.*

<sup>68</sup> See speech of Colonial Secretary, July 18, 1862. South Australia, *Parliamentary Debates*, 1862, p. 402.

Also speech of Governor at opening of legislature. South Australia, *Votes and Proceedings of the Legislative Council*, 1862, vol. 1:2.

products of the farm. A larger market was required. But this could only be secured by a customs arrangement with the neighboring colonies.

Accordingly on November 18, 1862, Colonial Secretary Waterhouse invited<sup>69</sup> the other colonies to join with South Australia in the adoption of a uniform tariff. The divergent tariffs and "the systematic treatment of each colony by its neighbors as though it were a foreign state" were, he declared, gradually creating a feeling of antagonism "which may eventually render impossible that federation which all look forward to as ultimately desirable." This antagonism would be accentuated by the imposition of border duties which the increasing population along the border would render necessary for the protection of revenue. Until facilities for communication were greatly improved "probably matters would not ripen sufficiently to allow of complete federation," but meantime, much might be done to create a more cordial feeling and "prepare the way for a future federal union." As "one step towards attaining this desirable end the government intends seeking legislative authority to receive free of duty all articles bona fide, the produce of any other Australian colony which is willing on the same terms to receive the produce of this." The hope was expressed that the other colonies would adopt a similar policy.

The South Australian government went still further and suggested "the desirableness" of placing the tariffs of the colonies "on a uniform basis."<sup>70</sup> As long as they remain essentially different it will be impossible for the colony with the higher tariff to prevent the introduction of goods that have paid duty under a lower one unless a large costly revenue service was maintained." This consideration, the Colonial Secretary explained, had led to the repeal of ad valorem duties in South Australia, and would operate to prevent their reimposition in the other colonies. The necessity for a uniform tariff was made all the more apparent by the demand for free distillation, the restriction upon which the government "would be extremely sorry to see much longer continued." He proposed therefore that "the treasurers of the several colonies or some persons possessing the confidence of the respective governments should meet in Melbourne "in order to discuss how far united action in respect to uniform tariffs may be attainable." "I am aware that no mutual agreement can be permanently binding upon the different legislatures but I can scarcely doubt that identity of interest would

<sup>69</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2:647.

New South Wales, *Journal of the Legislative Council*, 1863-4, p. 14.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:684.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2, no. 21.

Queensland, *Votes and Proceedings of the Legislative Assembly*, 1863, p. 205.

Allin, *The Early Federation Movement of Australia*, 398.

<sup>70</sup> Allin, *The Early Federation Movement of Australia*, 398.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 101.

lead to the general and continued maintenance of any such arrangement if once adopted."<sup>71</sup>

At the opening of the legislature not long after,<sup>72</sup> the Governor<sup>73</sup> announced<sup>74</sup> that as negotiations with the neighboring governments on the subject of uniform customs were "still pending, no immediate legislation would be proposed until the voice of the country has been pronounced at the general election now so near at hand." The legislative program of the government, however, included a bill for the importation on reciprocal terms of produce of other colonies.<sup>75</sup> But the subject of intercolonial tariffs attracted singularly little attention in the debate on the address in reply. In the legislative council, Mr. Ayers<sup>76</sup> was the sole speaker to refer to the topic.<sup>77</sup> He commended the government for its efforts to bring about a uniform tariff though he did not expect that the sister colonies would be ready to coöperate. In the Assembly, several of the speakers expressed their desire to see a uniform tariff adopted in all the colonies, though they were doubtful as to the immediate practicability or the permanence of such an arrangement.<sup>78</sup> The legislatures could not be depended upon to maintain a uniform fiscal policy. Frequent changes of policy were the inevitable result of the rapid succession of ministries so characteristic of Australian politics.<sup>79</sup> "Uniformity of tariffs," said Mr. Finnis,<sup>80</sup> "would never be maintained unless there were a fiscal union among the colonies, and a central legislature to deal with matters of this kind." Some of the members, however, had no sympathy with the policy of a uniform tariff. The spirit of protection was abroad.<sup>81</sup> They demanded a return to the system of ad valorem duties not as a revenue measure only, but as a means of fostering local industries.

On July 8, 1862, the government presented to the two Houses a series of resolutions on the subject of a uniform tariff.<sup>82</sup> "Resolved, (1) That in the opinion of this Council it is desirable that a uniform tariff should as far as practicable prevail throughout the Australian colonies; (2) That in order thereto three delegates should be appointed to proceed to Melbourne for the purpose of conferring with delegates from the other colonies; (3)

<sup>71</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2:647.

<sup>72</sup> April 25, 1862.

<sup>73</sup> Sir Dominick Daly, governor of South Australia, 1862-8.

<sup>74</sup> South Australia, *Minutes and Proceedings of the Legislative Council*, 1862, vol. 1:2.

<sup>75</sup> *Ibid.*

<sup>76</sup> Hon. Henry Ayers, subsequently several times premier of the colony.

<sup>77</sup> South Australia, *Parliamentary Debates*, 1862, p. 9.

<sup>78</sup> See speech of Mr. Duffield. *Ibid.*, 17.

<sup>79</sup> See speeches of Finnis and Magarey.

<sup>80</sup> South Australia, *Parliamentary Debates*, 1862, p. 17.

<sup>81</sup> *Ibid.*, 29.

<sup>82</sup> South Australia, *Minutes and Proceedings of the Legislative Council*, 1862, vol. 1:43.

Allin, *The Early Federation Movement of Australia*, 398.



That it is desirable such conference should be held prior to effecting any considerable alteration in our fiscal system."

The idea of a uniform tariff, the Colonial Secretary<sup>83</sup> declared, was not new.<sup>84</sup> Public opinion had greatly matured in the last two years, and the government was now led "to believe that the time had arrived for assimilation. The policy was undoubtedly a bold one but not so difficult as some might think." The problem had been simplified for South Australia by the abolition of ad valorem duties. "Whatever might be the individual opinion of any particular member of the Ministry, the government as a whole thought it was better to reimpose ad valorem duties and give free distillation than to continue the present system." The government realized, however, that the adoption of the policy of free distillation would antagonize the other colonies to such an extent that "it would be hopeless to look for unanimity of action on any topic." Unless the existing particularistic tendencies were checked the colonies would by degrees assume the relation of "rival and independent states." The neighboring governments had responded to the proposals of South Australia in the most friendly spirit. The Victorian legislature had recently altered its tariff with a view to bringing it into closer accord with the schedules of the sister colonies. The experience of the last few years ought to have convinced the governments "of the mutual connection of the various Australian tariffs and their interdependence on one another." At the very time that South Australia was getting rid of ad valorem duties in order to bring her fiscal policy into line with New South Wales and Victoria, the latter were considering the imposition of the ad valorem system to protect themselves against South Australia.

The policy of the government, he continued,<sup>85</sup> had been further influenced by the inadequacy of the existing revenues and the necessity of securing a broader basis of taxation. South Australia had been impairing her capital by living too much off the land fund, instead of resorting to customs duties. But the growth of the wine and tobacco industries by accentuating the demand for free cultivation would result in throwing the burden of taxation on imports. The attitude of the neighboring governments had been materially affected by the recent border difficulties. The levying of border duties had been a political and fiscal failure; it had created ill feelings between the colonies and had proved a sorry failure as a revenue producer. The government of South Australia had nearly gotten into the same difficulties as New South Wales, for it had found that large quantities of goods were being conveyed from Victoria across the border into the southeastern district without the payment of duty. The government had

<sup>83</sup> Hon. George M. Waterhouse, chief secretary of South Australia, October, 1861, to July, 1863.

Mennell, *Dictionary of Australasian Biography*, 494.

<sup>84</sup> South Australia, *Parliamentary Debates*, 1862, p. 401.

<sup>85</sup> *Ibid.*

seriously contemplated the enactment of legislation authorizing the seizure of such goods, but the idea was abandoned in view of the present movement for an intercolonial conference. The delegates, one of whom might be chosen by the Council and the other by the Assembly, would be authorized to consider such further topics as the legislature might suggest. He expected great practical benefits from the conference whether a uniform tariff were agreed upon or not. Even if the only result should be to secure the free exchange of colonial produce throughout the several colonies, as in the United States or the British North American colonies, the conference would be productive of much good. The want of some such understanding, he tellingly concluded, was clearly seen in the high Victorian tariff on South Australian wines.<sup>86</sup>

The debate ranged over a wide field as many of the members were much more concerned about free distillation and ad valorem duties than about a uniform tariff. The policy of free distillation was still in doubt. The Council had not yet made up its mind in respect thereto but was awaiting the decision of the coming election.<sup>87</sup> And the tariff policy in connection therewith was open to serious controversy, since some of the Council favored ad valorem or even protective duties<sup>88</sup> while others supported an income tax or adhered to the principles of free trade.<sup>89</sup> In the opinion of several of the members, it would be useless to attempt to secure uniformity of tariffs on the basis of free distillation. The other colonies were not extensively engaged in wine culture and would not consent to surrender their duties on spirits in order to relieve the horticulturists of South Australia. The adoption of free distillation, Mr. Solomon warned the Council, would be followed by a retaliatory tariff on wheat and flour on the part of the other colonies. There was a strong undercurrent of feeling in the Council in favor of a protective tariff or at least a return to ad valorem duties, but the very suggestion of protection called forth a protest from the free traders. A majority of the members were favorable to the holding of a conference, though some of them were not at all hopeful as to the outcome of the deliberations. The conference "might at least do good, it was said, and could do no harm."<sup>90</sup> One or two of the speakers, however, expressed grave doubts as to the wisdom of a customs union. A uniform tariff, said Mr. Forster,<sup>91</sup> necessarily implied "stationary parliamentary action in fiscal matters"; and it was better, in his judgment "to leave each colony to the genius of its own distinctive character."<sup>92</sup> However desirable a federation might be in

<sup>86</sup> South Australia, *Parliamentary Debates*, 1862, p. 401.

<sup>87</sup> See speech of Hon. J. H. Barrow. *Ibid.*, 403.

<sup>88</sup> See speech of Hon. G. Hall. *Ibid.*, 404.

<sup>89</sup> Hons. Barrow, *Ibid.*, 404, and Solomon, *Ibid.*, 406.

<sup>90</sup> Speech of Hon. H. Ayers.

<sup>91</sup> Hon. Anthony Forster, for some time editor of the *South Australia Register*.

<sup>92</sup> South Australia, *Parliamentary Debates*, 1862, p. 495.

the future, it would produce but little benefit during the infancy of the colonies when they were dependent upon their own energies for advancement.

An amendment was proposed by Mr. Angas and accepted by the government to insert the words "so far as practicable" in the first resolution.<sup>93</sup> A brief discussion ensued in which the Colonial Secretary explained that the government did not intend to propose any material changes in the tariff, and that, in his judgment, an imperial act would not be required to carry out an agreement in respect to a uniform tariff. The resolutions were thereupon agreed to without a division.<sup>94</sup>

The speech of the Treasurer<sup>95</sup> in the Assembly covered much the same ground as that of the Colonial Secretary in the Council.<sup>96</sup> No system of border customs, he maintained, could protect the revenues of the colonies so long as the Murray served as a common highway of commerce. An unfortunate intercolonial antagonism had already been aroused over the postal question and the existing tariff difficulties would tend to intensify it. On the other hand, an assimilation of tariffs would strengthen the free trade principle throughout the colonies. The fact that South Australia was not inferior to New South Wales or Victoria in natural resources should induce the legislature to seek a uniform tariff. Conditions had greatly changed since 1857-8 when the question was first mooted. Victoria had adopted a more harmonious policy as was evidenced by the abolition of the passenger capitation tax; and the other colonies should show a like cordial spirit. Upon many matters, such as uniformity of customs, a high court of appeal, naturalization, coastwise lighting, and reciprocal professional qualification, the colonies might well agree before taking up the more comprehensive question of federation. The example of the Canadian provinces in this respect should afford an excellent precedent for the Australian colonies. The freedom of trade which would result from an assimilation of tariffs would be especially beneficial in developing a "more steady and recognized scale of living" throughout the colonies. In view of the deficiency in revenue, he believed that a proposition for an increase in duties ought to be laid before the coming conference.

The resolutions stirred up a most animated discussion which continued for several days.<sup>97</sup> The agitation for free distillation and the high-handed action of Victoria in the matter of the European postal service furnished

<sup>93</sup> *Ibid.*, 407.

<sup>94</sup> *Ibid.*

South Australia, *Minutes and Proceedings of the Legislative Council*, 1862, vol. 1:43.

<sup>95</sup> Hon. Arthur Blyth, treasurer of South Australia in Waterhouse ministry from October, 1861, to July, 1863.

Mennell, *Dictionary of Australasian Biography*, 44.

<sup>96</sup> South Australia, *Parliamentary Debates*, 1862, p. 413.

<sup>97</sup> July 8, 9, and 10, 1862.

the opposition with excellent campaign material. The provincialistic issue was at once raised.<sup>98</sup> The fiscal independence of the colony was in jeopardy. Mr. Kingston<sup>99</sup> struck the keynote of the opposition at the very outset. Nothing would result from the conference, he maintained,<sup>100</sup> unless South Australia gave way to Victoria in every particular. The resolutions were merely an attempt to shelve the question of free distillation. That question, together with the subject of ad valorem duties and the postal service, should be settled before the delegates were sent to the conference. He moved to amend<sup>101</sup> the first resolution by inserting after the word "colonies" the following clause: "an equitable rearrangement of the steam postal service should be made recognizing the geographical position of South Australia." Throughout the debate the opposition kept up their assaults on the good faith of the Ministry and the cavalierly conduct of the Victorian government.<sup>102</sup> They demanded that the delegates should carry specific instructions in respect to the chief questions at issue. The government, Mr. Finniss contended,<sup>103</sup> was saying in effect: "give us ad valorem duties and we will grant you free distillation," but at the same time they were pursuing a policy of customs uniformity which would prevent the execution of their part of the contract. South Australia, he continued, was not in a position to conciliate the other colonies by the adoption of their tariffs. She should not fritter away her freedom of action, indulge in border warfare or adopt the high tariff of Victoria. If the tariffs were made uniform, South Australia would be obliged to levy a tax on property in order to make up the deficiency in revenue. He characterized the government's proposal to admit colonial produce free of duty as "unconstitutional and impracticable, which was probably the reason why the House had heard nothing more of the promised bill." It was impossible, he concluded, "to have a uniform tariff unless it were preceded by a federation and authorized by the imperial parliament."

Some of the protectionist members were much more outspoken in their condemnation of the government's conciliatory policy. They denied in toto that there was any identity of interest among the colonies.<sup>104</sup> They wished to have neither truck nor trade with the neighboring colonies save on their own terms. A uniform tariff would sacrifice the distinctive interests of the several colonies, particularly South Australia. Moreover, it would lead to intercolonial free trade "which South Australia could not stand." Victoria

<sup>98</sup> Allin, *The Early Federation Movement of Australia*, 399.

<sup>99</sup> George S. Kingston, member of the legislative assembly for the Burra.

Mennell, *Dictionary of Australasian Biography*, 262.

<sup>100</sup> South Australia, *Parliamentary Debates*, 1862, p. 415.

<sup>101</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:121.

<sup>102</sup> See speeches by Townsend, Magarey, and Finniss.

<sup>103</sup> South Australia, *Parliamentary Debates*, 1862, p. 444.

<sup>104</sup> See speeches of Magarey and Mildred.

was already producing wheat which she had formerly imported from South Australia and her farm products might soon invade the South Australian market. South Australia, Mr. Magarey declared,<sup>105</sup> should have waited until the other colonies came to her and then she could have dictated conditions. Since the government had unfortunately agreed to a conference, the delegates should be instructed to insist upon free distillation and ad valorem duties as a sine qua non of any agreement.

The supporters of the government endeavored to minimize the danger of coercion. The delegates, it was said,<sup>106</sup> would be bound by instructions beyond which they could not go. South Australia could count upon the support of the delegates of New South Wales in case of any conflict with Victoria. In view of the weakness of South Australia it was not sound policy to antagonize the sister colonies. If South Australia adopted a discriminating policy, as was urged by the protectionists, a war of tariffs would ensue which would ruin the colony. Under any circumstances the equalization of tariffs would be preferable to border customs houses. The very men, it was pointed out, who were most bitter in their denunciation of the selfishness of Victoria, were demanding that Victoria should sacrifice her interests to advance those of South Australia. In the hope of overcoming some of the opposition, the Commissioner of Public Works<sup>107</sup> held out the hope that the delegates might be instructed to insist upon free distillation at the conference.<sup>108</sup>

By leave of the House, Mr. Kingston's amendment was further amended so as to read:<sup>109</sup> "an equitable rearrangement of the steam postal service should be made, giving to South Australia the delivery and early receipt of her mails due to her geographical position."<sup>110</sup> Notwithstanding a feeble protest as to the irrelevancy of the amendment, the government did not venture to oppose it outright. The resolution as amended was thereupon agreed to without a division.<sup>111</sup> On consideration of the second resolution, Mr. Kingston moved to amend<sup>112</sup> by striking out the section with a view to insert: "That it is desirable to amend the customs tariff by reimposing the former ad valorem duties of five per cent on imports and reducing the present tariff to that in force prior to the customs act of 1860." The amendment was defeated after a brief discussion by twenty-one to six.<sup>113</sup> But

<sup>105</sup> South Australia, *Parliamentary Debates*, 1862, p. 432.

<sup>106</sup> See speeches by the Commissioner of Public Works and Messrs. Brown, Sutherland and Santo.

<sup>107</sup> Hon. William Milne, commissioner of public works in the Waterhouse ministry from February, 1862, to July, 1863.

<sup>108</sup> South Australia, *Parliamentary Debates*, 1862, p. 419.

<sup>109</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:132.

South Australia, *Parliamentary Debates*, 1862, p. 452.

<sup>110</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:132.

<sup>111</sup> *Ibid.*, 132.

<sup>112</sup> South Australia, *Parliamentary Debates*, 1862, p. 453.

<sup>113</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:132.

the House was still much concerned about instructions for the delegates. After the defeat of an amendment<sup>114</sup> by Mr. Cole for the appointment of a committee to draw up the general principles by which the delegates should be guided, Mr. Bagot moved a further amendment<sup>115</sup> to add the following words: "And that it be an instruction to the delegates of this province to bring before the delegates of the other colonies the opinion of this House that the distillation laws of this colony must soon be considered with a view to the gradual removal of all restrictions upon free distillation." A sharp discussion ensued which covered much the same ground as in the previous debate. The amendment was carried by eighteen to nine, the government supporting the amendment.<sup>116</sup> The third resolution was thereupon adopted without discussion.<sup>117</sup> But upon motion of the Treasurer for the adoption of the resolutions, Mr. Mildred moved the previous question. Upon a division the vote stood thirteen to thirteen, the government voting Aye. The votes being equal, the Speaker gave his casting vote in favor of the Noes in consequence of the adoption in committee of the amendment prepared by Mr. Bagot on the second resolution.<sup>118</sup>

This defeat placed the government in an embarrassing position. The Ministry, Mr. Waterhouse explained,<sup>119</sup> could not understand the reason for its defeat, but had felt it best to place its resignation provisionally in the hands of the Governor. His Excellency first called upon Mr. Kingston to form a ministry but the latter declined. Mr. Hart was then sent for. After consulting with the members, he informed the government that it was the desire of the House that the Ministry should resume office; and the Ministry had felt under obligation to do so. The defeat was due, according to the Attorney General,<sup>120</sup> to an accidental combination of all those who objected to any part of the resolutions, whether friends of the government or not.<sup>121</sup> The government was now prepared to test the feeling of the House as Mr. Hart had recommended. "Although the original resolutions would not be proceeded with . . . the government would adhere to any principles they had embodied." The defeat of the government had occasioned much concern in Victoria as to the holding of the conference. Unless the House backed up the government, South Australia would be in the indefensible position of withdrawing from its own proposals. The action of the government came in for severe handling from the opposition.<sup>122</sup> The government was held up to ridicule as "the nominee of

<sup>114</sup> South Australia, *Parliamentary Debates*, 1862, p. 454.

<sup>115</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:132.

<sup>116</sup> *Ibid.*

<sup>117</sup> South Australia, *Parliamentary Debates*, 1862, p. 454.

<sup>118</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:133.

<sup>119</sup> South Australia, *Parliamentary Debates*, 1862, p. 455.

<sup>120</sup> Hon. Randolph I. Stow, afterwards judge of the supreme court of South Australia.

<sup>121</sup> South Australia, *Parliamentary Debates*, 1862, p. 457.

<sup>122</sup> See speeches by Finnis, Townsend, and Mildred.

Mr. Hart."<sup>123</sup> It was censured for having opened up negotiations without having first consulted the House and for now attempting to hide its defeat behind the fictitious honor of the colony. Neither the colony nor the House would be discredited by a refusal to join in the intercolonial conference; the Ministry only would suffer the humiliation. The conference, it was prophesied, would be a failure.

On July 17 the Colonial Treasurer moved<sup>124</sup> "That in the opinion of this House it is desirable that the colony of South Australia should be represented by delegates at any conference to be held at Melbourne on the subject of the assimilation of tariffs and the steam postal service." The conference, he declared,<sup>125</sup> would be held whether South Australia were present or not, but it would be a serious disappointment to the other colonies if she failed to put in an appearance. Mr. Reynolds, who had unfortunately been absent during the debate on the first resolution now led the attack on the government's policy but did not succeed in adding much to the previous argument. He scored<sup>126</sup> the Ministry for seeking legislative sanction for the appointment of delegates instead of assuming the responsibility of selecting the delegates itself as was the case in the other colonies. By so doing the legislature of South Australia would be placed in a false position; it would be bound by the action of its delegates whereas the legislatures of the other colonies would be free to accept or reject the recommendations of the government's representatives. The government should withdraw its motion and send the Colonial Secretary and Treasurer as delegates of the province. He repeated the well-worn argument that a uniform tariff would hand South Australia over to the tender mercies of the sister colonies. The government could not give a preference to Australian colonial produce as the English government, as well as the other colonies, would object to such discrimination. South Australia, he concluded, did not need to send three delegates, but it was important that the delegates selected should be supporters of free distillation. After some further discussion during which one of the members referred<sup>127</sup> to the American civil war as a horrible example of the result of an attempt to force a uniform tariff upon unwilling states, Mr. Townsend<sup>128</sup> moved an amendment<sup>129</sup> to add the following words: "and that previous to any delegates being appointed, the government submit to this House the scheme of taxation based on the principle of granting free distillation at once to the colony." The amendment

<sup>123</sup> South Australia, *Parliamentary Debates*, 1862, p. 459.

<sup>124</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:142.

<sup>125</sup> South Australia, *Parliamentary Debates*, 1862, p. 475.

<sup>126</sup> *Ibid.*

<sup>127</sup> See speech of Mr. Magarey. *Ibid.*, 481.

<sup>128</sup> Hon. Wm. Townsend, member for Onkaparinga.

<sup>129</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:142.

was negatived by nineteen to five; and the original motion was then agreed to without a division.<sup>130</sup>

The Colonial Treasurer thereupon moved<sup>131</sup> "that the House do now proceed to elect a delegate." An amendment was proposed<sup>132</sup> by Mr. Kingston to strike out all the words after the word "that" with a view to insert the following: "Two members of the ministry should be delegates to represent this colony at the proposed conference." The House concurred with the government in the opinion that the Treasurer should be one of the delegates but there was considerable difference of opinion as to the proper mode of selecting the second delegate.<sup>133</sup> As the government was unwilling to make a nomination, the opposition gave way and the original motion was adopted without a division. Whereupon Mr. Lindsay moved to further amend<sup>134</sup> by adding "and that the honorable member for Mr. Barker (namely Mr. Finnis) be another delegate." The amendment was a clever move to win over the free distillation supporters of the government under the guise of securing a representative of the policy of free distillation. But the government managed to defeat the selection of one of its chief opponents by a close vote, sixteen to eleven.<sup>135</sup> Upon another vote being taken, Mr. Glyde<sup>136</sup> was declared elected. A few days later<sup>137</sup> the Council proceeded to choose its representative. The question again arose as to whether the delegate of the Council should be a Minister or a private member.<sup>138</sup> An effort was made to induce the Colonial Secretary to accept the appointment in order to give a more official character to the delegation and as a pledge that the results of the deliberations of the conference would be submitted to parliament, but Mr. Waterhouse got out of the responsibility on the plea that he could not well be away at the same time as the Colonial Treasurer. Upon motion of the Colonial Secretary, Henry Ayers<sup>139</sup> was thereupon nominated as the representative of the Council and was elected without opposition.<sup>140</sup>

In the meantime, the New South Wales legislature had been considering the enactment of the legislation necessary to enable the government to deal satisfactorily with the question of border duties. Doubts had arisen as to the power of the governor general to make special arrangements for the admission of goods duty free across the border, inasmuch as the provisions

<sup>130</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:142.

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> South Australia, *Parliamentary Debates*, 1862, p. 483.

<sup>134</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:142.

<sup>135</sup> *Ibid.*

<sup>136</sup> Lavington Glyde, member for Yatala.

Mennell, *Dictionary of Australasian Biography*, 188.

<sup>137</sup> July 30, 1862.

<sup>138</sup> South Australia, *Parliamentary Debates*, 1862, p. 564.

<sup>139</sup> Hon. Henry Ayers, member of legislative council, subsequently premier of South Australia.

<sup>140</sup> South Australia, *Minutes and Proceedings of the Legislative Council*, 1862, vol. 1:55.



of the customs act were general in their application. The government was still worrying over the loss of revenue along the border, yet at the same time was anxious to avoid the reimposition of border duties.<sup>141</sup> The mere collection of statistics would not suffice. It was evident that some arrangement must needs be made with Victoria for the collection of the duties of New South Wales. To this end, the legislature in the early part of 1862<sup>142</sup> passed the Murray River Customs bill,<sup>143</sup> authorizing the Governor with the advice of the executive council to "enter into a binding treaty with the government of the colony of Victoria under which treaty all duties payable on goods liable to duty under the New South Wales customs duties act of 1855 and the opium duties act of 1857 may be collected by the government of Victoria and in lieu thereof an annual sum of an amount to be agreed upon by the contracting parties may be paid by that government to the credit of this colony, provided that any such treaty shall not extend beyond the period of three years from the date thereof."<sup>144</sup>

The South Australia proposal for an assimilation of tariffs was favorably received by the government of New South Wales. The government, the Colonial Secretary<sup>145</sup> stated, intended to submit the question to parliament at the coming session<sup>146</sup> and he "hoped that the result of the steps contemplated would be the establishment of uniformity of system throughout the Australian colonies." The speech of the Governor at the opening of parliament devoted a paragraph to the subject.<sup>147</sup> "The question of unrestricted commercial intercourse between New South Wales and the adjacent colonies has long engaged the attention of this government and the rapid settlement of population in the border districts renders an early adjustment very desirable. It is with much gratitude I inform you that the importance of this subject is now becoming more generally recognized and that the government of South Australia has sought the coöperation of this colony in the appointment of a commission of representatives from the various Australian colonies to consider and report upon the question of a uniform tariff which will form the basis of an arrangement by which each colony will receive that proportion of the revenue to which it is equitably entitled." The topic attracted but little attention in the legislative council in the debate

<sup>141</sup> Preamble of act, New South Wales 25, Victoria, ch. 11.

<sup>142</sup> January 10, 1862.

<sup>143</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1861-2, vol. 1:497.

New South Wales, *Journal of the Legislative Council*, 1861-2, p. 111.

*Official History of New South Wales*, 348.

<sup>144</sup> New South Wales 25, Victoria, ch. 11.

<sup>145</sup> Hon. Charles Cowper, colonial secretary of New South Wales from January, 1861, to October, 1863.

<sup>146</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2:648.

New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 15.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:685.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2, no. 23.

<sup>147</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 1:3.

on the address in reply.<sup>148</sup> Several speakers, including E. Deas Thompson, expressed the conviction that the question could only be settled on a common federal basis. Under existing conditions Mr. Butler<sup>149</sup> predicted the colonies would soon drift into the condition of South American states, "levying blackmail upon one another." In the Assembly, Dr. Lang was the only speaker to refer to the matter, which he did in a characteristic appeal for a zollverein.<sup>150</sup>

On September 10, 1862, the Colonial Treasurer<sup>151</sup> moved: "That it is desirable that New South Wales should be represented at the proposed conference of delegates from the various Australian colonies to be held at Melbourne on the subject of a uniform tariff with a view to secure to this colony the revenue to which it is entitled." Under the existing system, he declared,<sup>152</sup> New South Wales suffered more from the loss of trade and revenue than any of the other colonies. On the subject of the uniform tariff the views of the Colonial Treasurer had apparently undergone another transformation in the last two years.<sup>153</sup> As the interests of the colonies were common, the colonial governments ought, he now maintained, to do away with artificial restrictions on trade along the border and should set up a zollverein as in Germany. The recent vote of the South Australian Assembly had shown that that colony was willing to forego her favorite scheme of free distillation for the attainment of the greater good of a uniform tariff. Victoria, he believed, would be equally favorable to an assimilation of tariffs in order to provide a wider market for her expanding trade. New South Wales would go into the conference with the intention of securing the revenues of which it was now unjustly deprived. The conference, the Colonial Secretary added,<sup>154</sup> ought to confine its energies to the matter of a uniform tariff and not embarrass itself with the discussion of the question of federation. An effort should be made to reach an amicable settlement of the existing tariff controversies before resorting to retaliatory measures.

The debate was marked by a spirit of narrow provincialism.<sup>155</sup> A majority of the speakers were opposed to a federal union for the present at least, though there were a few far-seeing men who saw the necessity of taking immediate steps to work out a limited measure of federal coöperation.<sup>156</sup> Upon the question of a uniform tariff there was no consensus of

<sup>148</sup> *The Sydney Morning Herald*, May 28, 1862.

<sup>149</sup> Hon. Edward Butler, subsequently attorney general in the Parkes ministry.

<sup>150</sup> *The Sydney Morning Herald*, May 28, 1862.

<sup>151</sup> Hon. Elias Weekes, treasurer in the third Cowper ministry from March, 1860, to March, 1863. Menzell, *Dictionary of Australasian Biography*, 498.

<sup>152</sup> *The Sydney Morning Herald*, September 11, 1862.

<sup>153</sup> See ante, 110.

<sup>154</sup> *The Sydney Morning Herald*, September 11, 1862.

<sup>155</sup> Allin, *The Early Federation Movement of Australia*, 406.

<sup>156</sup> See speeches of Samuel, Lang, Hay, and Forster.

opinion. As it was not a party issue each member felt free to express his own individual opinion. The more liberal minded members of the House favored the principle of a uniform tariff. In this they were strongly supported by the representatives of the border districts. A few of the speakers looked upon a uniform tariff as a step in the direction of federation,<sup>157</sup> while others regarded it as a simple economic question.<sup>158</sup> But while the tariff reformers deprecated the narrow provincialism of their opponents, they did not hesitate to express grave doubt as to the outcome of the conference. South Australia, it was believed, was more interested in free distillation than in a uniform tariff; and to free distillation neither Victoria nor New South Wales would ever agree.<sup>159</sup> In the case of the latter, it would involve, according to Mr. Samuel,<sup>160</sup> a loss of one half of the revenue of the colony. The attitude of Victoria in respect to the collection of border duties was also likely to occasion difficulty. It would be no easy matter for the colonies to agree upon a common basis for a uniform tariff.

The extreme provincialists, on the other hand, would have nothing to do with the conference.<sup>161</sup> They feared a conspiracy against the liberties and independence of New South Wales. South Australia, it was charged, was seeking a market for free whiskey under the cover of a uniform tariff and "was using free distillation as a threat." She was hoping to filch a part of the revenues of New South Wales by proposing a per capita distribution of the joint customs receipts of the several colonies. Victoria was also plotting to draw New South Wales into a tariff arrangement suited to her own peculiar interests.<sup>162</sup> The governments of the other colonies were laughing at the weakness of the local administration. New South Wales should strike back at once by taking steps to collect the Murray River duties. Mr. Allen called upon the government to assert its authority over the Murray River by seizing all dutiable goods in course of transportation on its waters.<sup>163</sup> It was absurd to consult the other colonies as to how New South Wales should tax herself. A zollverein was not at all adapted to a group of seaboard states like the Australian colonies. And even though a uniform tariff were adopted, the varying conditions of the several colonies would soon require material alterations of the tariff on the part of the several colonies.<sup>164</sup> There could be no guarantee of permanency and without such a guarantee a uniform tariff was not worth striving for. The

<sup>157</sup> Messrs. Lang and Hay.

<sup>158</sup> Messrs. Samuel, Cowper, and Forster.

<sup>159</sup> See speeches of Samuel and Forster.

<sup>160</sup> Hon. Saul Samuel, subsequently agent-general of New South Wales. Menzell, *Dictionary of Australasian Biography*, 401.

<sup>161</sup> See speeches of Dickson, Wilson, Allen, Piddington, and Hoskins.

<sup>162</sup> See speeches of Dickson and Hoskins.

<sup>163</sup> *The Sydney Morning Herald*, September 11, 1862.

<sup>164</sup> See speeches of Messrs. Allen, Piddington and Hoskins.

collection and distribution of the common revenue would be a constant source of discord among the colonies.<sup>165</sup> New South Wales might better "keep herself independent, looking to her own elevation." The particularists, however, did not venture to carry their opposition to the point of voting against the motion. The resolution was adopted in a very slim House without a division.<sup>166</sup>

The recent erection of Queensland into an independent colony<sup>167</sup> raised a question of border duties similar to that on the southern frontier. New South Wales was given a dose of her own medicine, for the Queensland government on finding that considerable quantities of goods were being carried across the border from New South Wales without the payment of duty, promptly seized some of the goods. But as it was thought best to secure legislative sanction, the government introduced a bill "to provide for the collection of customs duties on goods crossing the boundary of New South Wales."<sup>168</sup> The bill had an easy passage through both houses and duly received the Governor's assent.<sup>169</sup> To meet this difficulty the government of New South Wales secured the enactment of a measure similar in character to the Murray River Customs Act, authorizing the executive to enter into an agreement with Queensland in regard to border customs.<sup>170</sup> Negotiations were at once set on foot for an equitable adjustment of the matter.<sup>171</sup> Meanwhile the Queensland government refrained from collecting the duties to which it was justly entitled. The government of New South Wales suggested<sup>172</sup> that the matter should be considered at the approaching intercolonial conference, but at the same time expressed its willingness to send delegates to Brisbane to negotiate directly with the Queensland government upon the basis of the recent legislation of the respective legislatures. As the latter proposal found favor with the Queensland executive, the Colonial Secretary of New South Wales paid a visit to Brisbane early in the summer of 1863 and succeeded in arranging a convention under the terms of which New South Wales paid into the Queensland treasury a fixed sum per annum in lieu of the customs duties otherwise chargeable.<sup>173</sup> A qualified system of free trade was thus restored across the northern boundary.

In the meantime, the Tasmanian government had addressed the Colonial

<sup>165</sup> See speech of Mr. Hoskins.

<sup>166</sup> *The Sydney Morning Herald*, September 11, 1862.

<sup>167</sup> On June 16, 1859, The Moreton Bay district was erected into a separate colony under the name of Queensland.

<sup>168</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1861-2, vol. 1:537.

New South Wales, *Journal of the Legislative Council*, 1861-2, vol. 1:130.

<sup>169</sup> Queensland, *Votes and Proceedings of the Legislative Assembly*, 1862, 2 sess., 83.

<sup>170</sup> This bill was reserved for the royal assent which was given some months later.

<sup>171</sup> Queensland, *Votes and Proceedings of the Legislative Assembly*, 1863, 1 sess., 3.

<sup>172</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:695.

<sup>173</sup> Debate in the legislative assembly of New South Wales, September 1, 1863. *The Empire*, September 2, 1863.

Secretary of Victoria in regard to the reopening of the question of federation.<sup>174</sup> Mr. Duffy<sup>175</sup> at once brought the matter up in the legislative assembly and secured the appointment of a select committee on federal union.<sup>176</sup> At the same time the Colonial Secretary suggested that the deliberations of the committee might be extended to the subject of a uniform tariff or perhaps if the conference were held "it might take a wider scope than that suggested by the South Australian government."<sup>177</sup> In their report the committee enumerated<sup>178</sup> among other reasons for a federation, "the desire to develop in each colony the industry for which nature has fitted it without wasteful rivalry," and recommended that the delegates about to be appointed to the conference should also be empowered to deal with the subject of a federal union. Both houses of the legislature readily agreed to the recommendation<sup>179</sup> which was duly communicated by the Colonial Secretary to the governments of the sister colonies with a request for favorable consideration. But none of the other governments, with the exception of Tasmania, was willing to refer the question of federation to the coming conference.<sup>180</sup>

At the time of the receipt of the South Australian invitation, the Tasmanian legislature was also engaged in a sharp fiscal controversy over the attempted repeal of the Customs Duties Increase Act. "Although the situation of the colony, according to Mr. Innes,<sup>181</sup> made a uniformity of tariff on the part of this and the other Australian colonies of less importance to it and to them than uniformity among those colonies themselves, still the government of Tasmania recognized the desirability of the object contemplated" and would send a delegate to the conference if the time fixed for the meeting were a convenient one.<sup>182</sup> Somewhat later the Governor notified<sup>183</sup> the legislature of his intention to appoint the Colonial Treasurer one of the representatives to the conference and at the same time requested the Assembly and the Council to select one member each for a similar appointment.<sup>184</sup> A few days later in the House of Assembly Mr. Chapman

<sup>174</sup> Tasmania, *Journal of the House of Assembly*, 1862, vol. 7, no. 15.

<sup>175</sup> Charles Gavan Duffy, subsequently premier of Victoria. Mennell, *Dictionary of Australasian Biography*, 141.

<sup>176</sup> *Victoria Hansard*, 1861-2, vol. 8:1151.

Allin, *The Early Federation Movement of Australia*, 400.

<sup>177</sup> *Victoria, Ibid.*, 1151.

<sup>178</sup> *Victoria, Votes and Proceedings of the Legislative Assembly*, 1861-2, vol. 2:1285.

Allin, *The Early Federation Movement of Australia*, 400.

<sup>179</sup> *Victoria Hansard*, 1861-2, vol. 8:1332, 1337.

*Victoria, Votes and Proceedings of the Legislative Assembly*, 1861-2, vol. 1:377.

<sup>180</sup> New South Wales, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2:648.

<sup>181</sup> Frederick Maitland Innes, colonial secretary of Tasmania from November, 1862, to January, 1863.

<sup>182</sup> New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 14.

*Victoria, Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:682.

<sup>183</sup> Tasmania, *Journal of the House of Assembly*, 1862, vol. 8:137.

<sup>184</sup> Tasmania, *Journal of the Legislative Council*, 1862, vol. 7:86.

presented<sup>185</sup> the name of Mr. Dowling<sup>186</sup> as a worthy representative of the commercial interests at the forthcoming conference. The opposition at once objected. The legislature, Mr. Meredith<sup>187</sup> declared, distrusted the equivocal policy of the government on the fiscal question.<sup>188</sup> The government apparently did not know its own mind on the question of a uniform tariff. At one time the premier had objected to ad valorem duties but now he was supporting them. Yet at the same time he was nominating a gentleman whose fiscal views were opposed to his own. From whom, he asked, was the member from Launceston to take his instructions, from the treasury bench or the opposition? In adopting a system of ad valorem duties Tasmania had placed herself in opposition to the commercial world and it was folly to expect that the other colonies would adopt a system which Tasmania herself was anxious to get rid of. Mr. Balfe, on the other hand, was of the opinion that it would be impossible to arrange a uniform tariff which would be satisfactory to Tasmania.<sup>189</sup> Notwithstanding various objections to Mr. Dowling's nomination, the government had its way, and he was chosen by a large majority.<sup>190</sup> The following day<sup>191</sup> Mr. Chapman moved for the appointment of a select committee to consider the advisability of furnishing instructions to the delegates to the conference.<sup>192</sup> As strenuous objection was offered to the relegation of the question of tariff policy to a "cut and dried committee,"<sup>193</sup> the government wisely determined to let the matter drop.<sup>194</sup> In the legislative council the consideration of the appointment of a delegate to the conference was indefinitely postponed after two efforts to secure a nomination had failed.<sup>195</sup>

Upon the resignation of the Chapman ministry early in 1863<sup>196</sup> a new administration was formed under the strong leadership of Hon. James Whyte.<sup>197</sup> The new government promptly proceeded to make provision for the representation of Tasmania at the approaching conference. On this occasion, however, the Governor<sup>198</sup> nominated all three delegates, the

<sup>185</sup> Tasmania, *Journal of the House of Assembly*, 1862, vol. 8:143.

<sup>186</sup> President of the Launceston chamber of commerce.

<sup>187</sup> Charles Meredith, formerly colonial treasurer under Mr. Gregson.

<sup>188</sup> *The Hobart Mercury*, October 2, 1862.

<sup>189</sup> *Ibid.*

<sup>190</sup> Tasmania, *Journal of the House of Assembly*, 1862, vol. 8:143.

<sup>191</sup> October 2, 1862.

<sup>192</sup> Tasmania, *Journal of the House of Assembly*, 1862, vol. 8:148.

<sup>193</sup> The proposed committee was made up of the Colonial Treasurer, Dowling, Butler, Miller, Davies, and the mover.

See speeches of Messrs. Horne and Allison on the election of the committee.

*The Hobart Mercury*, October 3, 1862.

<sup>194</sup> Tasmania, *Journal of the House of Assembly*, 1862, vol. 8:148.

<sup>195</sup> Tasmania, *Journal of the Legislative Council*, 1862, vol. 8:98, 106.

<sup>196</sup> January 20, 1863.

<sup>197</sup> Mennell, *Dictionary of Australasian Biography*, 508.

<sup>198</sup> Colonel (afterwards Sir T.) Gore Browne, governor of Tasmania from December 10, 1861, to December 30, 1868.

Colonial Treasurer<sup>199</sup> being chosen to represent the Ministry, and one member was selected from each of the Houses to satisfy the susceptibilities of the legislature.<sup>200</sup>

Before proceeding to Melbourne the delegates were provided with a comprehensive set of instructions<sup>201</sup> upon all questions which were likely to come before the conference.<sup>202</sup>

Upon the subject of Customs Tariffs it was declared "the proposed meeting of delegates at an intercolonial conference has always contemplated for its primary object the discussion of the respective fiscal systems of the various Australian colonies with a view to the establishment if possible of some approximation to uniformity of customs tariffs, the promotion of greater freedom of exchange of the principal articles of production of the several colonies represented at the conference.

"But while the permanent importance of these objects is thus unreservedly admitted by my government, the special interests of Tasmania must at all times be kept steadily in mind by the delegates entrusted with the representation of the colony at the approaching conference."

"To advance the general welfare of Tasmania as a separate independent community, to maintain its public revenues at a legitimate level is the immediate object as it must be the paramount duty of my responsible advisers. I entertain a confident expectation that a similar sentiment will be found to animate the Tasmania delegates.

"However desirable therefore it may appear on broad general grounds to secure harmonious action and uniformity of system throughout the Australian colonies, the delegates from Tasmania must bear in mind that they are not empowered to legislate as a Congress of Representatives for a group of independent provinces, but that their proper mission is to ascertain by mutual consultation and amicable discussions what are the views entertained by the other delegates on the subjects that may be brought before the conference, and to discover what are the principles of action on these heads likely to find practical acceptance with the governments and legislatures of the other Australian colonies.

"The delegates will therefore take care not to commit my government to a definite concurrence in proposals for future combined action in any direction that may seem to involve a public sacrifice of the interests or to risk a diminution of the revenue of Tasmania.

"My advisers are at this moment engaged in serious deliberation upon the revision of the existing Tasmania tariff to a system which excludes the admission of duties levied on the *ad valorem* principle.

"It will consequently be impossible for my government to acquiesce in any suggestion for the adoption of a common or uniform tariff based on the recognition of that principle of admitting *ad valorem* duties as one of its constituent elements.

"With this reservation the delegates are authorized to intimate to the conference

<sup>199</sup> Hon. Charles Meredith, treasurer in the Whyte ministry from January 20, 1863, to November 24, 1866.

<sup>200</sup> Hon. W. Carter, M. L. C., and Adye Douglas, member of the assembly for Westbury.

<sup>201</sup> Tasmania, *Journal of the House of Assembly*, 1863, 2 and 3 sess., vol. 10, no. 1.

<sup>202</sup> The instructions are quoted at length because they furnish such an excellent illustration of the cautious provincial spirit of even the most liberal minded of the Australian governments.

the readiness of my government to concur generally in the adoption of a uniform tariff of customs common for all the Australian colonies.

"The main object of such a tariff would be the promotion of freer exchange of the products of the several colonies. At present the customs duties levied for revenue purposes in all the colonies alike upon many articles of general consumption produced by Australia as a whole in common with Great Britain and other countries in both hemispheres operate almost as a prohibition to the commercial interchange between the various members of the Australian group of the special productions peculiar to the soil and climate of each individual colony.

"The only practical remedy for this anomalous, undesirable condition of our commercial relations with communities so closely united with each other by the ties of a common race, allegiance and language must be sought in the establishment of a general fiscal system by which the indigenous productions and home manufactures of the several colonies constituting the Australian group shall be interchangeably admitted at the port or across the frontiers of neighboring or contiguous provinces exempt from the duties of customs imposed by any member of the collective body upon similar productions of British or foreign growth. This result might not improbably be attained without much difficulty after amicable deliberation and some mutual concessions by arrangement between the several governments and the enactment of an identical tariff by the several Australian legislatures.

"But unfortunately the fiscal policy of Great Britain which forbids the Governors of these colonies to assent to bills imposing differential duties must always interpose a fatal obstruction to the realization of this design. And it is in this direction, in the opinion of my government, that the labors of the conference may be most carefully and beneficially extended.

"The Tasmania delegates are consequently empowered to communicate to the conference that Her Majesty's ministers in this colony will be prepared to adopt a joint petition to the Secretary of State having for its object the removal of this restriction upon the fiscal legislation of the Australian colonies on a question so naturally affecting their commercial relations as adjoining communities, thus practically limiting the action of their parliament in dealing with a purely domestic matter by the needless interposition of imperial considerations.

"The aim of this remonstrance would be to secure for Australia a practical recognition by Great Britain and foreign nations of its commercial and fiscal, as of its geographical, unity. It is obvious that if this principle were admitted by the imperial government, the Australian colonies would be generally benefited to the extent of the advantages derivable from a far larger intercolonial consumption than is now possible of their respective peculiar productions.

"If the royal assent might now be given to bills imposing what may be termed comprehensively "intercolonial differential duties" Tasmania would be able to import and consume many productions of the continental colonies which are now practically excluded from her market by the duties uniformly imposed in obedience to the requirement of imperial policy upon all similar imported articles whether of European or Australian origin. The articles of wine and malt afford a familiar instance of the injurious effect of this imperial prohibition of differential duties.

"Were this restrictive policy abandoned, the malt liquors of Tasmania for the production of which we enjoy advantages of temperature and climate superior to those of our continental neighbors might find a profitable market in the ports of New South Wales, South Australia, Victoria and Queensland. At present the duty levied on these articles in common with British malt liquors forms a similar obstacle,



if not positive prohibition, to their successful competition in those colonies with European commodities of the same class.

"In the same way the duty now unavoidably charged upon wines, the production of South Australia, New South Wales, (probably at no distant date on the wines, rum, sugar, and coffee of Queensland) amounts to so large an addition to the cost of production as renders their general consumption in Tasmania a practical impossibility.

"Other articles in the same category will readily occur to the delegates, and my government is especially desirous that the advisability of arriving at some mutual and common understanding on this important subject between the several executives and legislatures of the colonies represented at the conference should be regarded by the delegates from Tasmania as the first and principal object of this meeting.

"It may not, perhaps, be possible for many years to come, to sacrifice the revenue derivable from an import duty on Australian wines, malt liquors, and some other articles of Australian production. But were the imperial restriction relaxed in favor of these colonies, such articles might be interchangeably admitted throughout the Australias at a lower rate of duty than that levied on similar British and foreign products. It is needless to enlarge upon the advantage of this result in the case of communities almost without manufactures and with a limited list of exports which are now in effect refused admission to their nearest and natural market."<sup>203</sup>

The overtures of the South Australian government met with a friendly but by no means hearty reception at Brisbane.<sup>204</sup> The difficulties in the way of adopting a uniform tariff were admittedly great but the Queensland government recognized "the expediency of making the attempt" and promised to arrange if possible to send the Colonial Treasurer or some other duly qualified official to represent the colony at the conference. The government, however, "was not equally able to entertain at the present time the proposal that the exports of each colony should reciprocally be received by the other free of duty. This latter is a proposition the abstract soundness and propriety of which the government of Queensland does not now desire to question but the time has not yet arrived for acceding to it. It is hoped at no distant date that our exports of rum and sugar as well as other tropical products may be considerable but at present to accede to such an arrangement as that submitted would be as regards Queensland, to sacrifice a considerable portion of our customs revenue and thereby to confer very small, if any, advantages upon our colonial producers." The government failed, however, to take any active measures towards carrying out its promise to send delegates to Melbourne.<sup>205</sup> Having laid before the legislature certain

<sup>203</sup> Instructions were also given in respect to lighthouses along the coast, a court of appellate jurisdiction, and a federation of the colonies.

In conclusion the delegates were advised never to lose sight of the interests of the colony in their deliberations on questions of general welfare.

Tasmania, *Journal of the House of Assembly*, 1863, 2 and 3 sess., vol. 10, no. 1.

<sup>204</sup> New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 15.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:685.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1862, vol. 2, no. 23.

Queensland, *Votes and Proceedings of the Legislative Assembly*, 1863, 1 sess., 206.

<sup>205</sup> Allin, *The Early Federation Movement of Australia*, 406.

papers in regard to a uniform tariff and a federation, it allowed matters to rest and then threw off on the legislature the responsibility for inaction.<sup>206</sup> As for the legislature, it was too much interested in the exercise of its new functions and too suspicious of outside interference to pay much attention to matters of federal concern.<sup>207</sup>

An invitation was also extended to the West Australian government though there was little hope that the latter would be able to participate in the conference. The geographical position of that colony, Colonial Secretary Barlee explained,<sup>208</sup> precluded the government from entering into any arrangement such as was proposed, but the executive would be pleased to take into consideration the decisions of the conference.

At this point a petty difficulty arose which threatened for a time to wreck the plans for a conference. The date proposed by the Adelaide executive proved unsatisfactory to some of the colonies.<sup>209</sup> Long negotiations ensued in the hope of finding a more convenient season. The Queensland government asked for a postponement to enable it to obtain parliamentary sanction for the selection of delegates. The legislatures of New South Wales and Victoria were in protracted session and the governments found it difficult, if not impossible, to get away.<sup>210</sup> At last a satisfactory date was agreed upon by New South Wales, Tasmania, and South Australia, and Mr. Blyth appealed<sup>211</sup> to the Victorian executive not to allow "any measure, however important," to be considered "of greater interest than the meeting of delegates from the Australian colonies, which might be the first step towards a federal union and which would certainly tend to allay those jealousies and misunderstandings which already exist between the colonies." He expressed the hope that the conference would yet meet and would have the grand result "that goods, the bona fide produce of one part of Australasia, may be permitted to pass duty free to other ports of the continent and that all hostile tariffs may be avoided." But the Victorian executive proved obdurate.<sup>212</sup> The South Australian government was discouraged and was on the point of giving up the conference. At this moment Mr. Cowper intervened with the suggestion that inasmuch as the Melbourne government was apparently desirous of blocking the conference, the other colonies should meet at Sydney and go on with the conference. The Colonial Secretary of South Australia agreed and the government of New South Wales at once re-

<sup>206</sup> New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 18.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 2, no. 42.

<sup>207</sup> Allin, *The Early Federation Movement of Australia*, 406.

<sup>208</sup> New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 15.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:685.

<sup>209</sup> New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 16.

<sup>210</sup> *Ibid.*, 19.

<sup>211</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:692.

<sup>212</sup> *Ibid.*

opened negotiations for the holding of a conference at Sydney.<sup>213</sup> But neither the Queensland<sup>214</sup> nor the Tasmanian<sup>215</sup> government found it possible to accept the Sydney invitation, and the conference was again postponed.

At the opening of the South Australian legislature February 27, 1863, the Governor was able to report a more hopeful prospect for the conference.<sup>216</sup> The effect of the correspondence, he declared, had been "to direct attention to the desirableness of some mutual agreement as to colonial tariffs and of the advantages to be derived from the free exchange of colonial productions." As the Victorian ministry had at last expressed its willingness to meet in conference during March, he indulged the hope that the deliberations of that body might be laid before the local legislature before it devolved upon the latter to consider the subject of a revision of the tariff. A call was accordingly issued for a conference to be held at Melbourne during March, all the colonies, save Queensland and West Australia signifying their intention to attend. In order to permit its delegates to get away the legislature of South Australia agreed to an adjournment until April 9. The following delegates, Messrs. Blyth, Glyde, and Ayers, were duly chosen to represent the colony at the conference.<sup>217</sup>

In conformity with its promise to the legislature, the executive council drew up a set of instructions<sup>218</sup> for the guidance of the delegates to the conference. The attention of the delegates, it was declared, should be primarily and more immediately directed to the attainment of the following desirable objects: "First, the adoption by the colonies generally of a uniform tariff established upon such principles as shall provide for the raising of a customs revenue adequate to the requirements of this colony calculated at present estimates at £200,000; second, such alteration of existing tariffs as shall allow of the unrestricted interchange of wine, flour, fruits, timber, and unmanufactured articles of colonial produce; third, the establishment of reciprocal arrangements whereby each colony shall receive the full benefit arising from the consumption of dutiable goods passing the border without payment of special duties." Further instructions were given in respect to lighthouses, postal systems, weights and measures, and naturalization. The powers of the delegates were consultative only, the final decision on

<sup>213</sup> *Ibid.*, 693.

<sup>214</sup> Queensland, *Votes and Proceedings of the Legislative Assembly*, 1863, 1 sess., p. 212.

<sup>215</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-3, vol. 1:693.

<sup>216</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 1:2.

<sup>217</sup> *Ibid.*, 22.

Mr. Hart had been urged by the Waterhouse ministry to be one of the delegates, but owing to the fact that he had been instrumental in restoring the government to office, he felt that he could not accept the appointment and Mr. Glyde was chosen in his place. South Australia, *Parliamentary Debates*, 1870-1, p. 173.

<sup>218</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 2, no. 50.

all matters being expressly reserved to the government and legislature. As a final word of warning, the delegates were directed to follow "a united course of action in all discussions" and to allow "no differences of opinion among themselves to be perceptible."<sup>219</sup>

<sup>219</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 2, no. 50.  
Allin, *The Early Federation Movement of Australia*, 407.

## CHAPTER IX

### THE MELBOURNE CONFERENCE AND ITS AFTERMATH

On March 26 the conference assembled at Melbourne, the following delegates being in attendance:<sup>1</sup>

New South Wales—

C. Cowper, Colonial Secretary

T. W. Smart, Treasurer

E. C. Weekes, M.P.

Victoria—

J. O'Shanassy, Chief Secretary

W. C. Haines, Treasurer

R. S. Anderson, Commissioner of Trade and Customs<sup>2</sup>

South Australia—

A. Blyth, Treasurer

A. Ayers, M.L.C.

L. Glyde, M.P.

Tasmania—

C. Meredith, Treasurer

W. Carter, M.L.C.

A. Douglas, M.L.A.<sup>3</sup>

The delegates lost no time in getting down to work. At a preliminary meeting it was decided to dispense with the election of a chairman. Much more important was the decision that inasmuch as the adoption of a uniform tariff "would be defeated by premature publicity" the conference should not be open to the public and that the result of the proceedings only should be communicated to the press.<sup>4</sup>

The following day Mr. Cowper gave notice of a series of resolutions: "(1) That customs duties ought to be paid to the revenues of those colonies by whose population the dutiable goods were consumed; (2) That with a view to the effective carrying out of this principle a uniform tariff be adopted by all the colonies having common boundaries and the revenue collected by all at stated periods divided rateably and paid over to each according to population; (3) That this conference is of the opinion that the ad

<sup>1</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 1.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, 1:669.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 2, no. 44.

*Official History New South Wales*, 373.

Tasmania, *Journal of the House of Assembly*, 2 and 3 sess., vol. 10, no. 1.

<sup>2</sup> The delegates of New South Wales and Victoria were nominated by the government.

<sup>3</sup> In South Australia and Tasmania the government appointed the Treasurer and each House selected one member.

<sup>4</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:669.

valorem mode of levying duties upon goods is open to so many objections that it ought not to be resorted to."<sup>5</sup>

At the very outset Mr. Cowper called upon the Victorian delegates to surrender the customs duties of New South Wales as a condition precedent to the consideration of other questions.<sup>6</sup> But the Chief Secretary of Victoria refused to be bluffed. The precipitate action of New South Wales, he claimed, was not only prejudicing the immediate question at issue but also imperilling the success of the whole conference. The delegates of the other colonies joined in urging upon New South Wales the expediency of postponing the consideration of this issue until other matters were satisfactorily adjusted. For the sake of harmony, Mr. Cowper thought it better to put off the question for the moment in the hope that Victoria would be in a more compliant mood later on.<sup>7</sup> But at the same time he warned the conference that New South Wales did not intend to give up her claim to the duties.

The conference then turned to the consideration of a whole series of federal questions ranging from transportation to a uniform system of weights and measures.<sup>8</sup> The advantage of a uniform tariff was recognized by all the delegates: but the practical difficulty of framing a customs schedule acceptable to all the colonies barred the way. The problem was both fiscal and financial. The tariff policies of the colonies were unsettled and the needs of the treasuries by no means uniform. Notwithstanding these complications the conference succeeded in reaching an agreement in respect to many of the principal articles of taxation.

The resolutions of the conference concerning the tariff ran as follows:<sup>9</sup> "That the basis of a uniform tariff should be determined for the Australian colonies and also for Tasmania; that the ad valorem mode of levying duties upon goods was open to many objections and that it ought not to be continued; that the following tariff be adopted by the conference:

Spirits (imported) 10s. per gallon; wine, in wood, 2s. per gallon; in bottle, reputed quarts, 8s. per dozen; reputed pints, 4s. per dozen; ale, porter and beer, in wood, 6d. per gallon; in bottle, reputed quarts, 1s. per dozen; in bottle, reputed pints, 6d. per dozen; malt, 6d. per bushel; hops, 3d. per lb.; tobacco, manufactured, 2s. per lb.; unmanufactured, 1s. per lb.; sheepwash, 3d. per lb.; cigars and snuff, 4s. per lb.; tea, 6d. per lb.; sugar, refined, and

<sup>5</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:669.

<sup>6</sup> Speech of Hon. T. W. Smart, in the legislative assembly of New South Wales, September 1, 1863. *The Empire* (Sydney) September 2, 1863.

<sup>7</sup> Debate in the legislative assembly of New South Wales. *The Empire*, September 2, 1863.

<sup>8</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 2, no. 44. *Official History of New South Wales*, 374.

<sup>9</sup> *Ibid.*

Coghlan, *The Seven Colonies of Australasia*, 1901-2, p. 51.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 102.

candy, 7s. per cwt.; unrefined, 5s. 6d. per cwt.; molasses and treacle, 3s. 6d. per cwt.; coffee, chicory, cocoa and chocolate, 3d. per lb.; opium, manufactured, 20s. per lb.; unmanufactured, 10s. per lb.; rice, 4s. per cwt.; dried fruits, nuts, and almonds, 10s. per cwt.; candles, 1d. per lb.; oils, whether of natural or artificial origin, and fluids used for burning or lighting purposes, 6d. per gallon; and salt, 40s. per ton." It was further resolved "that the members of the conference should undertake to urge upon their respective parliaments the adoption of such tariff; that the tariff which had been agreed upon, after the fullest deliberation, ought not to be altered by any one colony, nor until after the proposed alteration should have been considered in a future conference; and that drawbacks should be allowed on the following articles, viz.: wines, hops, tea, sugar, rice, coffee, chicory, cocoa, and chocolate. Other articles such as ale, beer, candles and oil were left open for future consideration.<sup>10</sup> It was further agreed that the schedule of tariffs should be signed by the treasurers of the several colonies and be kept sealed until required for parliamentary discussion. Tuesday, the second day of June, at half past four, was fixed as the day and hour for bringing forward the amended tariff question in all the colonies.

But these resolutions were not adopted without qualification. The South Australian delegates, mindful of the recent tariff debates in the legislature, declined to join in the condemnation of ad valorem duties.<sup>11</sup> The Tasmanian Treasurer took exception to the duty on tobacco. And in accepting the tariff schedule the representatives of New South Wales expressly reserved the right "of not proposing the tariff to parliament if the government of Victoria finally refused to make any arrangement with New South Wales in regard to border customs duties."<sup>12</sup> Mr. Cowper and his colleagues were not primarily interested in the attainment of a uniform tariff. They regarded it as a means only to an end. It was part of the consideration they were prepared to pay for a satisfactory border agreement.<sup>13</sup>

Accordingly, as soon as the question of a uniform tariff was disposed of, Mr. Cowper again brought forward his resolution in regard to border customs:<sup>14</sup> "That customs duties ought to be paid to the revenues of those colonies by whose population the dutiable goods are consumed." The resolution was supported by the South Australian delegates on account of the special claim they had against Victoria for the duties of the South Eastern district, but it was opposed by Victoria as an improper interference with

<sup>10</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 2.

<sup>11</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:678.

<sup>12</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 10.

<sup>13</sup> Speech of Hon. E. C. Weekes, in the legislative assembly of New South Wales. *The Empire*, September 2, 1863.

<sup>14</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:679.

freedom of intercolonial trade. Upon a vote being taken, the resolution was carried. Ayes: Cowper, Smart, Weekes, Glyde, Ayers, Blyth and Douglas. Noes: O'Shanassy and Anderson. Two of the Tasmanian delegates, Messrs. Meredith and Carter, declined to vote on the ground that Tasmania had no immediate interest in the question at issue, but Mr. Douglas felt free to support the resolution on general principles. Mr. Haines, the third Victorian representative, was not present at the time of voting. On behalf of Victoria, Mr. O'Shanassy obtained leave to lay on the table a copy of Governor Hotham's proclamation of October 29, 1855, as the expression of Victorian policy.<sup>15</sup>

But a general resolution would not suffice. Some more definite action was demanded by New South Wales. A few days later Mr. Cowper presented an alternative solution of the difficulty.<sup>16</sup> If Victoria would not agree to the collection of border customs for the neighboring colonies, a certain percentage being allowed her for the cost of collection, then "the duties should be levied according to the principle of a zollverein," each colony collecting the duties on all goods imported into its territory, the proceeds to be distributed among the respective colonies "every six or twelve months" according to some equitable mode of apportionment. He accordingly moved,<sup>17</sup> "That the conference is of the opinion that the colonies of New South Wales, Victoria and South Australia ought to coöperate with each other to secure to each colony the revenue to which it is legally entitled either by the distribution of the customs revenue collected by all at stated periods rateably according to population, or by some other mode which may be considered equitable and practical." But the proposition did not go far enough to suit Victoria. The latter insisted upon the principle of intercolonial free trade. Mr. Anderson accordingly moved to amend<sup>18</sup> by adding the following words: "Such as the assimilation of the tariffs of the said colonies as now agreed upon which would upon being enforced, obviate all difficulties in respect to border customs by establishing a system of internal free trade whether borne along or across the Murray River." Upon the question being put, the vote stood for the original motion: Cowper, Smart, Weekes, Blyth, Ayers, Glyde and Douglas; for the amendment: O'Shanassy, Anderson and Haines. Mr. Carter of Tasmania refrained from voting and Mr. Meredith was absent. This result was so unsatisfactory that Mr. Cowper asked for a personal meeting with the Chief Secretary of Victoria in the hope of reaching an agreement in regard to the collection

<sup>15</sup> Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:679.

<sup>16</sup> Speech of Hon. T. W. Smart, in the legislative assembly of New South Wales. *The Empire*, September 2, 1863.

<sup>17</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 9.

<sup>18</sup> *Ibid.*, 10.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 102.



of border duties.<sup>19</sup> But as the conference was on the point of terminating its labors, the proposal fell through and the matter was left to subsequent negotiations.

Many other subjects of common interest engaged the attention of the conference.<sup>20</sup> The conference adopted resolutions in respect to transportation, a permanent immigration fund, the improvement of internal rivers for purposes of navigation and irrigation, coastal lighthouses and other maritime questions affecting the shipping interests, fortnightly ocean postal communication, cable communication, legal questions including the law of bankruptcy, patents, joint stock companies, probate, letters of administration, a court of appeal for the Australian colonies and a uniform system of weights and measures. Upon the question of a federal union of the colonies, the conference declared that although the subject had been discussed in several of the legislatures, nevertheless as "the delegates had received no instructions in the matter it did not seem probable that its discussion at present would be attended with any benefit."<sup>21</sup> The last paragraph of the report of the conference concluded, "Considering the number and the importance of the questions discussed, it is gratifying that so much unanimity prevailed respecting them; and the conference ventured to hope that their labours will tend to cement the feeling of friendly intercourse in respect to trade and commerce which has hitherto existed and that they will be otherwise productive of beneficial results to all the Australian colonies."<sup>22</sup>

The delegates had scarcely reached home before dissensions and recrimination broke out. Notwithstanding the conference pledge to secrecy, considerable information leaked out and found its way into the newspapers.<sup>23</sup> The *Hobart Town Advertiser*, an organ of the government, published a fairly comprehensive record of the proceedings. This action raised a tempest in a teapot. Mr. O'Shanassy was much annoyed at this disclosure and was reported to have threatened to leave Tasmania out of the proposed commercial union.<sup>24</sup> Some of the papers of the sister colonies insinuated that the Tasmanian delegates had been guilty of a grave breach of confidence. After waiting some time in the hope that the local government would call "upon the delegates for a refutation or explanation of these charges," Mr. Carter determined to bring the matter directly to the attention of the Colonial Secretary with a view to the vindication of his own conduct and of affording his colleagues a similar opportunity of justifying

<sup>19</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 27.  
Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:701.  
Tasmania, *Journal of the House of Assembly*, 1863, vol. 10, no. 1, p. 23.

<sup>20</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 2.

<sup>21</sup> Allin, *The Early Federation Movement of Australia*, 408.

<sup>22</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 4.

<sup>23</sup> *The Hobart Mercury*, June 18, 1863.

<sup>24</sup> *The Melbourne Argus*, June 5, 1863.

themselves.<sup>25</sup> So far as he was personally concerned, he had "neither communicated to the public press or any person whatever any subject or matter either wholly or in part which engaged the deliberations of the conference at Melbourne nor had he any knowledge by whom such disclosures were made." The Colonial Secretary, however, treated the charges as scarcely "worthy of consideration," but at the same time promised to bring the matter before parliament so as to enable the delegates to "clearly show that if any improper revelations have been made, they are not the guilty parties."<sup>26</sup>

At the opening of the legislature shortly after, the Governor announced<sup>27</sup> that in conformity with the recent resolution of the conference and the vote of the local legislature a bill would be introduced to repeal the ad valorem duties and to substitute moderate fixed duties on imports. In the debate on the address in reply, the opposition demanded an explanation of the alleged breach of faith on the part of the Tasmanian delegates.<sup>28</sup> The government, Mr. Chapman declared, ought not to delegate to any conference the power of determining the fiscal policy of the colony. That was a question to be determined by the local legislature and by it alone. The Colonial Treasurer denied that there had been any wrong doing on the part of the Tasmanian delegates. The secret of the tariff regulation bill had been carefully preserved. "He was not aware that any time was fixed for making public the proceedings with the exception of the tariff," and there was certainly nothing in the proceedings to be kept from the general public. The pledge of secrecy, the Attorney General<sup>29</sup> added "had been violated by the very colonies that accused Tasmania of a breach of faith." In the legislative council, the Colonial Secretary<sup>30</sup> was even more outspoken in his condemnation of the mischief makers of the mainland, particularly Mr. O'Shanassy and the *Melbourne Age*. Some features of the tariff, he admitted, had leaked out but through no fault of the Tasmanian delegates.<sup>31</sup> The proceedings of the conference were by no means secret;<sup>32</sup> they had already been discussed in several of the Australian papers. With these explanations a majority of the members of both Houses were apparently satisfied. The opposition were querulous but did not attempt to call in question the good faith of the Tasmanian representatives. The address in

<sup>25</sup> Tasmania, *Journal of the House of Assembly*, 1863, 2 and 3 sess., vol. 10, no. 1, p. 25.

<sup>26</sup> *Ibid.*, 23.

<sup>27</sup> *Ibid.*, 1863, 2 and 3 sess., vol. 10:2.

<sup>28</sup> *The Hobart Mercury*, June 18, 1863.

<sup>29</sup> Hon. Robert B. Miller, attorney general in the Whyte ministry.

<sup>30</sup> Hon. James Whyte, premier and colonial secretary of Tasmania from January, 1863 to November, 1866.

<sup>31</sup> *The Hobart Mercury*, June 18, 1863.

<sup>32</sup> Mr. Carter dissented from the view that the proceedings of the conference were not intended to be secret.

reply, expressing satisfaction at the decision of the conference against ad valorem duties, was allowed to pass without a division.<sup>33</sup>

In the other colonies the proposed uniform tariff met with a less favorable reception. On returning to Adelaide, Mr. Blyth promptly proceeded to carry out the conference pledge by laying the tariff agreed upon before the Assembly, only to find out, however, "the following day that the other colonies were laughing at them and did not intend to carry out the agreement."<sup>34</sup> The South Australian government was much chagrined by this breach of faith. As the other colonies had failed to live up to their agreement, the South Australian government felt free to devise an independent tariff of its own. Accordingly, two days later the Colonial Treasurer brought in an entirely different tariff in which the principle of an assimilation of duties found no place.<sup>35</sup> In Victoria, the O'Shanassy ministry was fighting for its existence and had neither time nor inclination to deal with extraneous matters. A few days later, the government was defeated and made way for a protectionist ministry under the leadership of Mr. McCulloch.<sup>36</sup> The new Cabinet took no interest in the conference proceedings.<sup>37</sup> The question of a uniform tariff was none of their business and was moreover incompatible with the fiscal principles they hoped to introduce. The government of New South Wales was equally indifferent, for it took no steps whatever to fulfill its part of the contract. In truth, the governments of the two larger colonies were only too glad to use the untoward proceedings in Tasmania as an excuse for the non-performance of their common obligation.<sup>38</sup> But the real excuse for the failure of the conference lay much deeper. The agreement of the colonies had been largely artificial. It was the product of a liberal spirit of good fellowship which the conference itself had created, but as soon as the delegates returned home, the old spirit of jealousy reasserted itself. The colonies were by no means prepared to coöperate even though the governments momentarily had realized the necessity for it.

Soon after the close of the conference, Mr. Anderson, the Victorian Commissioner of Customs, took up Mr. Cowper's proposal for a settlement of the border duties difficulty.<sup>39</sup> Victoria, he claimed, had made no

<sup>33</sup> Tasmania, *Journal of the House of Assembly*, 1863, 2 and 3 sess., vol. 10:2.

<sup>34</sup> Speech of Mr. Glyde. South Australia, *Parliamentary Debates*, 1870-71, p. 166.

<sup>35</sup> The *Parliament Debates* for 1863 and 1864 were not published in official form, but a fairly satisfactory account of the proceedings in parliament for these years may be found in the South Australia Register. The writer, unfortunately, has not had access to this material.

<sup>36</sup> Some of the members of the ministry were free traders in principle, but the fiscal policy of the government was protective.

<sup>37</sup> The McCulloch ministry came into office June 27, 1863.

<sup>38</sup> *The Melbourne Argus*, June 5, 1863.

<sup>39</sup> Memo. of April 29, 1863.

New South Wales, *Journal of the Legislative Council*, 1863-64, 1 t. 2, p. 27.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:702.

Tasmania, *Journal of the House of Assembly*, 1863, vol. 10, no. 1, p. 23.

effort to establish border duties notwithstanding the fact that the existing agreement had for some years past seriously affected its revenues. But now that New South Wales was of the opinion that free trade across the Murray was detrimental to her finances, she wanted to enter into a short term treaty, "leaving it open to that government to decline a renewal of the agreement should circumstances render such a renewal unfavorable to the interests of that colony." In conclusion, he suggested that the New South Wales government should submit some distinct proposition to the Victorian ministry as the basis of further negotiations.

Mr. Cowper quickly accepted the suggestion and placed before<sup>40</sup> the Victorian government three alternative propositions, any one of which, he declared, would be acceptable to New South Wales and would obviate the necessity of a recurrence to border duties: "1st, That the duties upon goods consumed by the inhabitants of both colonies should be divided at stated periods rateably according to population; or 2nd, That localities should be fixed upon and proclaimed as crossing places where alone parties having dutiable goods for transit should be allowed under a system of permits to remove them from one colony to the other; and that the revenue at stated periods be settled between the respective governments" as provided for in the agreement between New South Wales and Queensland; or "3rd, That after fully considering the probable amount of revenue at present lost yearly by New South Wales from the non-collection of duties upon goods imported across the Murray river and consumed within her territory, a fixed annual sum should be agreed to be paid in satisfaction of the amount to which she is legally entitled." No difficulty, it was claimed, "could be experienced in determining such amount."

But the Colonial Secretary of Victoria would have nothing to do with any of these propositions.<sup>41</sup> He demanded unrestricted free trade across the border. The Queensland agreement,<sup>42</sup> he claimed, afforded no evidence that border duties could be efficiently collected. The suggested three years agreement was but a makeshift; it still left the main question unsettled. Victoria owed nothing to New South Wales. The advantages that the latter had already reaped from the use of Victorian railways and from the Victorian market for her surplus stock and which she stood to gain from the prospective development of her export trade in wines and tobacco were

<sup>40</sup> New South Wales, *Journal of the Legislative Council*, 1863-4, pt. 2, p. 32.

Victoria, *Votes and Proceedings of the Legislative Assembly*, 1862-63, vol. 1:703.

Tasmania, *Journal of the House of Assembly*, 1863, vol. 10, no. 1, p. 23.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 192.

<sup>41</sup> New South Wales, *Ibid.*, 33.

Victoria, *Ibid.*, 704.

Tasmania, *Ibid.*, 24.

Quick and Garran, *Ibid.*

<sup>42</sup> See ante 138.

a full equivalent for the alleged loss of revenue on imports over the Murray. This answer was decisive and was accepted as such by New South Wales. Mr. Cowper immediately informed<sup>43</sup> the Victorian executive that "the refusal of the Victorian government to make any arrangement regarding border duties relieved the government of New South Wales of its conditional acquiescence in the conference proceedings."<sup>44</sup> The customs house officials were notified to be prepared to collect border duties on goods coming from Victoria.<sup>45</sup>

The failure of the intercolonial conference afforded the opposition in New South Wales an excellent ground for an attack upon the policy of the government. On September 1, Mr. W. Forster moved<sup>46</sup> in the legislative assembly "That this House is of opinion that the proceedings and results of the intercolonial conference held in Melbourne . . . and the conduct of the government in relation thereto . . . have been highly unsatisfactory." The government, he claimed, had given a fictitious importance to the conference. Although opposed to the levying of border duties, he attacked the principle of an Australian zollverein or a closer political federation of the colonies. The British connection was a bond of union "so strong that no collateral bond was necessary." The delegates had not only exceeded their powers, but had bungled the matters with which they were authorized to deal, especially the matter of border duties. When they saw that Victoria would not agree to a settlement of the border duties question, they should have left the conference at once. Throughout the debate the opposition speakers kept harping upon this theme.<sup>47</sup> Victoria had cajoled the representatives of New South Wales. Having secured what she wanted in the way of a uniform tariff she had then rejected the border proposals of New South Wales. The rumor of a uniform tariff had already resulted, according to Mr. Samuel, in a disorganization of trade.

The government defended the conduct of its delegates on the ground of political expediency.<sup>48</sup> The proposed uniform tariff, it was admitted, did not represent the views of the delegates of New South Wales and had only been accepted on condition that Victoria would pay over the revenues to which New South Wales was justly entitled. But Mr. O'Shanassy had refused to yield, notwithstanding the fact that a majority of the delegates recognized the justice of the claims of New South Wales. Nevertheless,

<sup>43</sup> New South Wales, *Journal of the Legislative Council*, 1863-64, pt. 2, p. 33.

<sup>44</sup> *Ibid.*

<sup>45</sup> Speech of Hon. T. W. Smart in the legislative assembly of New South Wales, September 1, 1863. *The Sydney Empire*, September 2, 1863.

<sup>46</sup> *Ibid.*

<sup>47</sup> See speeches by Piddington, Roper, and Cummings.

<sup>48</sup> See speeches of the Colonial Treasurer, Colonial Secretary, and Hon. E. C. Weekes.

when the delegates left the conference, the Colonial Secretary declared,<sup>49</sup> they had reason to believe that Victoria would accept one of the propositions just put forward by New South Wales. In this, they were again disappointed. As a result, the government intended to ask parliament for authority to collect duties along the Murray and would proceed to the collection unless the House objected. The conference, it was maintained, was not the failure it was alleged to be. It had afforded an excellent opportunity for bringing the claims of New South Wales to the attention of the other colonies and for discussing many subjects of general Australian interest. In conclusion, the Colonial Secretary held out the hope that the recent change of government<sup>50</sup> in Victoria might result in a more friendly attitude on the part of Victoria.

A majority of the members backed up the government in its determination to collect border duties. One or two of the speakers adopted a most hostile tone towards Victoria, accusing the latter "of sinister intentions on the trade and prosperity of New South Wales."<sup>51</sup> Various were the schemes put forward to deal with the difficulty, viz. the separation of the Riverina,<sup>52</sup> the improvement of the Murray so as to promote trade with South Australia,<sup>53</sup> the adoption of the permit system,<sup>54</sup> the extension of the railroads from Sydney to the border<sup>55</sup> and the exaction of duties on all Murray-borne commerce.<sup>56</sup> Several of the free trade members of the House contended that the abolition of all customs duties would be the most effective means "of bringing Victoria to her senses."<sup>57</sup> Upon a division being taken, the motion was defeated by a vote of 16 to 27.<sup>58</sup>

On the defeat of the Ministry a few days later, Mr. Martin was called upon to form a new government. Owing to a serious financial deficit, the Colonial Treasurer<sup>59</sup> found it necessary to propose a return to the former system of ad valorem duties.<sup>60</sup> This alteration of the fiscal system of the colony met with considerable opposition from the mercantile interests of Sydney, but the government succeeded in getting its customs schedule through the House without substantial alteration.<sup>61</sup>

<sup>49</sup> *The Sydney Empire*, September 2, 1863.

<sup>50</sup> Upon the defeat of the O'Shanassy ministry in June, 1863, Mr. McCulloch had been called upon to form a new administration.

<sup>51</sup> See speeches by Roper and Cummings.

<sup>52</sup> Speeches of Dr. Lang, Harper, and Cummings.

<sup>53</sup> Speech of Mr. Morris.

<sup>54</sup> Speech of Mr. Allen.

<sup>55</sup> Speech of Mr. Moriarty.

<sup>56</sup> Speech of Mr. Morris.

<sup>57</sup> Speeches of Lang and Wilson.

<sup>58</sup> *The Sydney Empire*, September 2, 1863.

<sup>59</sup> Hon. Geoffrey Eagar, Treasurer of New South Wales from October, 1863 to February, 1865.

<sup>60</sup> *Official History of New South Wales*, 387.

<sup>61</sup> A vote of censure was defeated by 27 to 11.

*Official History of New South Wales*, 389.

At the same time the government of New South Wales determined to take active measures to bring about a settlement with Victoria. To this end, it introduced and, in the face of considerable opposition, succeeded in passing a bill authorizing the government to collect duties along the Murray.<sup>62</sup> The object of the bill was twofold—to put the government in a stronger position to deal with Victoria and to remove any doubt as to the legality of levying inland duties.<sup>63</sup> The government announced, however, that it did not intend to put the act into operation until an effort had been made to come to an understanding with Victoria.<sup>64</sup>

For some time past the South Australian government had been having trouble over the free importation of goods from Victoria into the South Eastern district of the colony. An effort was made to induce the Victorian executive to pay over the duties which the latter collected on goods consumed within the borders of South Australia. But the Victorian government declined to respond to this request. The South Australian executive felt justly aggrieved. It could not see why it should collect duties for Victoria on the Murray when Victoria refused to reciprocate in the South Eastern district.<sup>65</sup> South Australia was certainly as much entitled to the duties withheld by Victoria as the latter was to the duties collected for her by South Australia. Accordingly on September 23, 1863, the government formally notified the Melbourne executive of its intention to rescind the agreement of 1859 in regard to the collection of Murray duties.<sup>66</sup> Similar notification was sent to New South Wales as the third party to the agreement.<sup>67</sup>

Shortly after, the matter was brought to the attention of the legislative assembly on a motion of Mr. Lindsay in favor of continuing the collection of duties on goods going up the Murray into New South Wales, and authorizing the government "to enter into negotiations with the government of that colony and also of Victoria with a view to fresh arrangements with these colonies."<sup>68</sup> As the government was desirous of maintaining the friendliest relations with New South Wales the resolution was readily agreed to. In the legislative council Mr. Waterhouse introduced a resolution to rescind the recent notice of the termination of the agreement, but he withdrew his motion without pressing it to a division.<sup>69</sup>

<sup>62</sup> New South Wales, 27. Vict., no. 15.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 103.

<sup>63</sup> Mr. Martin expressed the opinion that such legislation was not legally necessary. *The Sydney Herald*, July 25, 1867.

<sup>64</sup> *The Sydney Morning Herald*, April 28, 1865.

<sup>65</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1864, vol. 1, no. 32.

<sup>66</sup> Speech of Hon. J. Martin in the legislative assembly of New South Wales. *The Sydney Morning Herald*, April 28, 1865.

<sup>67</sup> South Australia, *Votes and Proceedings of the Legislative Assembly*, 1863, vol. 2, no. 138.

<sup>68</sup> *Ibid.*, vol. 2:344.

<sup>69</sup> South Australia, *Votes and Proceedings of the Legislative Council*, 1863, vol. 1:143.

The "non possumus" attitude of Victoria forced South Australia to seek an arrangement with New South Wales. The approaching intercolonial conference on the question of ocean lights afforded an excellent opportunity for taking up the subject of border duties. The government of New South Wales was understood to be thoroughly dissatisfied with the equal division of duties on goods passing up the Murray and it was believed would readily agree to a more favorable arrangement with South Australia. The Colonial Treasurer<sup>70</sup> was accordingly instructed by the executive council to lay the following proposition before the neighboring governments:<sup>71</sup> (1) "That the duty so collected (on Murray-borne goods) shall be divided into three parts, two of which shall be paid to the governments of New South Wales and one to Victoria. (2) That in consideration of the duty collected by the government of Victoria on goods sent across the border into the South Eastern district, the one third part of the Murray duties payable to Victoria shall be retained as an equivalent for border duties. (3) That the commission payable by New South Wales to South Australia for the expense of collection shall be 10 per cent." In accordance with these instructions, Mr. Hart paid a visit to Sydney in the hope of inducing the government of New South Wales to join with South Australia in an arrangement which would compel Victoria to act fairly toward the aggrieved colonies.<sup>72</sup> A memo of agreement was drawn up between the two governments, the terms of which were to be subsequently sanctioned by the respective legislatures.

According to the tentative agreement, it was proposed<sup>73</sup> that the duties engaged to be collected by one colony for the benefit of another should be subject to a charge of 10 per cent for collection; second, "that South Australia should collect on all river-borne goods passing out of her territory the duties thereon in accordance with such tariff as may be agreed upon; third, that two thirds of the net amount thus collected should be payable to the government of New South Wales and the remaining one third to the government of Victoria; fourth, that Victoria should collect at places agreed upon on the Murray, the duties on all goods passing out of her territory into that of New South Wales, paying the net sum collected to the latter government; fifth, that, to avoid the interruption to trade that the establishment of border customs houses would cause between Victoria and South Australia, the government of the latter colony should retain the one third portion of the river duties collected on account of the first named colony in lieu of and in compensation of the duties collected by Victoria on goods

<sup>70</sup> Hon. John Hart.

<sup>71</sup> Copy of Instructions.

South Australia, *Votes and Proceedings of the Legislative Assembly*, 1864, vol. 1, no. 32.

<sup>72</sup> Speech of Hon. J. Martin in the legislative assembly of New South Wales. *The Sydney Morning Herald*, April 28, 1865.

<sup>73</sup> *Ibid.*



passing from that colony into the South East district of South Australia; sixth, that in the event of the government of Victoria declining to accede to this arrangement or failing to propose any other equitable arrangement in lieu thereof, the government of South Australia should collect for the colony of New South Wales the whole of the duty on river-borne goods passing out of the territory of South Australia in accordance with the tariff then in force in New South Wales."<sup>74</sup>

Armed with this understanding and with the authorization of the government of New South Wales to negotiate on its behalf, Mr. Hart set out for Melbourne to attend the lighthouse conference.<sup>75</sup> On the first opportunity he brought up the question of the Murray river duties and laid a copy of the Sydney proposal before the Chief Secretary of Victoria. The matter was referred to the Minister of Trade and Customs. But Mr. Francis,<sup>76</sup> as was to have been anticipated, would have nothing to do with such a one-sided agreement and declined even to "continue the negotiations more especially as Mr. Hart was not officially authorized to submit the propositions."<sup>77</sup> The negotiations<sup>78</sup> accordingly fell through. On his return to Sydney, Mr. Hart informed the New South Wales government that in view of the failure of the negotiations, the government of South Australia would proceed to collect duties on Murray-borne traffic according to the terms of the recent memorandum.<sup>79</sup> But the Sydney executive was not prepared as yet to throw down the gauntlet to Victoria and asked for time to consult with the latter before coming to a final determination.<sup>80</sup> Mr. Hart's mission had failed to produce any immediate positive results, though it held out the prospect of a future agreement.

The recent Act<sup>81</sup> of the Sydney legislature was promptly brought to the attention of the Victorian government by one of the members of the local Assembly. The executive of Victoria, Mr. Larder contended,<sup>82</sup> should be armed with a similar "weapon of defence" in order to place it on equal terms with the government of New South Wales. The Chief Secretary

<sup>74</sup> Speech of Hon. J. Hart in the legislative assembly of South Australia, May 10, 1865.

South Australia, *Parliamentary Debates*, 1865, p. 160.

<sup>75</sup> The conference met on February 3, and continued until February 13. South Australia, *Notes and Proceedings of the Legislative Assembly*, 1864, vol. 2, no. 44.

<sup>76</sup> Hon. James G. Francis, minister of trade and customs in first McCulloch government from June, 1863 to May, 1868, subsequently premier of Victoria.

<sup>77</sup> Speech of Hon. J. Francis in the legislative assembly.

*Victoria Hansard*, 1864, vol. 10:230.

<sup>78</sup> According to Mr. Hart, Victoria was not only unwilling to surrender the duties on Riverina traffic but even claimed these duties as of right since Victoria had opened up the country. South Australia, *Parliamentary Debates*, 1865, p. 159.

<sup>79</sup> Speech of Hon. J. Martin in the legislative assembly of New South Wales, April 27, 1865.

*The Sydney Morning Herald*, April 28, 1865.

<sup>80</sup> *Ibid.*, July 25, 1867.

<sup>81</sup> See ante, p. 157.

<sup>82</sup> *Victoria Hansard*, 1864, vol. 10:320.

however, refused to commit himself. The decision of the matter, he maintained,<sup>83</sup> should be left until after the conclusion of the negotiations. If the government found that it had not sufficient powers to protect the interests of the colony, it would introduce a bill to confer upon it the necessary powers of levying customs duties.

Soon after,<sup>84</sup> the New South Wales government opened up negotiations with the Chief Secretary of Victoria for a general settlement of the dispute both along and across the Murray. The dispatch of Mr. Forster,<sup>85</sup> however, was not calculated to promote a speedy understanding. "Whatever local politicians with selfish or ulterior object may urge to the contrary, he declared,<sup>86</sup> your government must recognize that we have the right to receive the duty and devise what means we wish for collection. While we can not ask your government as a matter of right to aid us, there are reasons for hoping for your assistance in the matter." In case, however, the Victorian government did not see fit to reciprocate the friendly feelings of New South Wales, it would be possible, he pointed out, to make an arrangement with South Australia which would obviate to a large extent the necessity of levying double duties on the Murray. But before making any such arrangement, the government was desirous of securing the concurrence of Victoria. The people of Victoria had a special financial interest in the Riverina. "It may indeed without exaggeration be said that the advantages which have followed from the settlement and occupation of the districts in question, are almost entirely enjoyed by you and not by us, while upon the people of this colony exclusively the duty and cost of government have been imposed." It would be a simple matter, in his judgment, to devise a scheme for taking an account of all dutiable goods crossing the Murray by placing customs houses at the few ports guarding the lines of communication. Drawbacks could then be paid in respect to all goods which were subject to a double tariff. New South Wales would look after the salaries of the necessary officials. No definite proposal would be made, however, until the attitude of Victoria was made known in the matter. The government did not wish "to be driven to a policy of levying duties on all goods imported for whatever purposes." But, if necessary, it would be prepared, he intimated, to assert its jurisdiction over all vessels plying on the Murray within its territory. "As the whole of the Murray River up to a certain point is included within our limits, it would be under the supervision of our revenue officers and a refusal to allow drawbacks on goods once within any portion of our territory, would be as valid as a similar refusal on yours. But such a policy, he concluded, would be injurious and destructive to both colonies."

<sup>83</sup> *Victoria Hansard*, 1864, vol. 10:320.

<sup>84</sup> June 8, 1864.

<sup>85</sup> Colonial secretary in the Martin ministry from October, 1863 to February, 1865.

<sup>86</sup> *Victoria, Votes and Proceedings of the Legislative Assembly*, 1864-65, vol. 4:669.

The Victorian government did not permit the dangerous pretensions of New South Wales in respect to the Murray, to pass unchallenged. It was unfortunate, Mr. McCulloch declared,<sup>87</sup> that the government of New South Wales should have embarrassed the due consideration of the border duties issue "by raising for the first time the larger and more important question of the river and denying the right to Victoria to the free and unrestricted use of its waters for her commerce." The Victoria government were desirous of fostering amicable relations between the two colonies and would use their best efforts to bring about a satisfactory settlement of the financial difficulty, "but they feel that it is impossible to approach the discussion with any hope of a satisfactory result until the far graver issue as to the navigation of the river shall be finally set at rest." Victoria, he maintained, had an equal right with New South Wales "to the free navigation of the Murray for its internal commerce and coördinate jurisdiction over its waters." In conclusion, he expressed the hope that the government of New South Wales "will not object to join in such measures as may be necessary for placing the matter beyond the possibility of future doubt." In case this were granted, he promised to submit at once "a proposition for the adjustment of the frontier trade" which he hoped would prove acceptable to New South Wales.

As this reply was unsatisfactory, the Sydney government determined to bring matters to an immediate issue. It had "no disposition, it declared,<sup>88</sup> to enter upon a controversy regarding its legal right" over the Murray, but would proceed at once to the collection of border duties. A notice was accordingly inserted in the *Government Gazette*<sup>89</sup> (1) "that customs stations have been established at . . . and that on and after the 19th Sept. next, duties will be levied on all goods which being subject to duty under the New South Wales tariff shall be brought across the river Murray from Victoria."<sup>90</sup> (2) If any such goods shall be brought into New South Wales contrary to this notice and to the customs laws, such goods shall be forfeited together with the vessels, etc. or other vehicles used in conveying or removing them and all persons concerned in their conveyance or removal will be prosecuted according to law." At the same time, a number of customs officers were appointed for the various ports of entry along the Murray. The war of tariffs had broken out once more. The colonies were again at one another's throats.

<sup>87</sup> *Ibid.*, 671.

<sup>88</sup> Dispatch of Colonial Secretary Forster to the Chief Secretary of Victoria, August 27, 1864.

*Ibid.*, 673.

<sup>89</sup> New South Wales, *Government Gazette Extraordinary*, August 20, 1864.

Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 103.

<sup>90</sup> Victoria, *Votes and Proceedings of the Legislative Council*, 1864-65, vol. 4:673.



## SUMMARY AND CONCLUSION



## CHAPTER X

### THE TRIUMPH OF PROVINCIALISM

The movement for an assimilation of tariffs had ignominiously failed. It had ended in a succession of picayune squabbles. The colonies apparently had learned nothing from the fiscal failures of the past twenty years. Their spirit of petty independence had defeated the well-intentioned efforts of the British government to put an end to their fiscal rivalries. The colonial legislatures refused to accept imperial leadership and insisted upon their inherent right to frame their own tariffs. But when the right was conceded, they were no more successful than the colonial office in settling the tariff question. They were so immersed in the development of their respective territories that they failed to realize at first that there was an intercolonial problem.<sup>1</sup> And when the problem was at last forced upon their attention by the opening up of the Riverina, they still persisted in looking upon it as a local political issue rather than as a great national question common to all the Australian colonies.

The demands of the border settlers, however, proved too strong for the parish politicians of the respective capitals. The Murray River conventions marked the temporary triumph of a more liberal intercolonial policy. They afforded a partial solution of the most pressing problem of intercolonial relations.<sup>2</sup> They relieved the tension along the border and served for a time to promote a more fraternal feeling among the three leading colonies of the mainland. But the border agreements fell far short of solving the broader and more difficult question of intercolonial free trade. The tariff relations of the colonies were still subject to the fiscal needs and selfish interests of the local legislatures. With the growth of protectionist sentiment, the tariff became the football of petty politicians. The border conventions afforded little security against the commercial pretensions of the rival traders of Sydney and Melbourne. The governor of South Australia foresaw the danger of economic isolation and launched a movement for an assimilation of tariffs.<sup>3</sup> The movement started auspiciously. The delegates at the Melbourne conference were singularly successful in reconciling the fiscal differences of the colonies, only to find, however, that the local legislatures would have nothing to do with the proposed federal tariff. The colonies refused to surrender the smallest measure of fiscal independence. The tariff relations of the colonies were becoming more complicated, yet

<sup>1</sup> Tilby, *Australasia*, 178.

<sup>2</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 103.

<sup>3</sup> See chapter 8.

the problem was apparently even further from a solution than during the régime of Earl Grey. The colonial office had at least anticipated the untoward cause of events; the democracy of Australia had scarcely begun to realize the danger of divergent tariffs.

The failure of the federal plans of the colonial office was due in part, as we have seen, to the somewhat dictatorial methods of Earl Grey in urging the adoption of the new Constitution Act; but in an even larger measure it must be attributed to intercolonial jealousies and to an unreasoning fear on the part of the colonies of any imperial interference in their purely domestic affairs.<sup>4</sup> The long hard struggle over the question of transportation had made them unduly suspicious of any proposal emanating from Downing Street. The grant of responsible government signified to the colonial legislatures their emancipation from the colonial office régime, and they had no intention of subjecting themselves again to a higher constituted authority, federal or otherwise. Least of all would they consent to surrender their control over the fiscal policies of their respective provinces, upon which depended to a large extent the effective exercise of their rights of self-government.

The same spirit of independence was manifested by the colonies in their relations to one another. The local legislatures had inherited a tradition of intercolonial jealousy. South Australia could not soon forget her repugnance to convictism. In the minds of the early settlers at Hobson's Bay and Brisbane, there long rankled a grievance against the selfish policy of the government at Sydney. And the mother colony could not readily acquiesce in the spoliation of her territory for the purpose of building up rival young states. In the course of time, the early commercial jealousy of Sydney and Melbourne developed into a deep-seated rivalry amounting in some cases to open hostility. The rapid growth of Victoria in wealth and population soon placed that colony in the premier position in the Australian group;<sup>5</sup> and the government at Melbourne was not slow to take full advantage of that fact. But the people of New South Wales were not ready to take a secondary position. They resented the aggressive policy of their ambitious neighbor; and unfortunately this resentment was prone at times to express itself in the form of unfriendly legislation. The relations of the small colonies to each other and towards the larger sister states were much more cordial, though never entirely friendly or confidential. There was always an underlying suspicion on the part of Tasmania and South Australia that it would be well to keep a careful watch upon their more powerful neighbors. They were conscious of their own weakness and correspondingly jealous of any infringement of their autonomy.

<sup>4</sup> Jebb, *Studies in Colonial Nationalism*, 65.

<sup>5</sup> Coghlan, *The Seven Colonies of Australasia*, 1901-2, pp. 404-543.



The very isolation of the colonies engendered the spirit of provincialism. The colonies were cut off from the outside world by both time and space. The strong arm of the British navy protected them against the danger of foreign invasion. They had no external relations; they were only passively interested in the devious course of European affairs. They lived in a little world of their own, a world with a distinct set of interests and problems from those of Europe or America. Even amongst themselves, their relations at first were far from intimate. The population of the colonies was small and concentrated in a few local centers. Outside of the capitals of the respective provinces, there were only a few scattered settlements. The vast interior of the continent had scarcely been opened up to trade. Communication was slow and difficult. The first railroads were in the course of construction. Intercolonial intercourse, save along the Murray, was largely by sea. This condition of isolation broke down before the rising tide of foreign immigration, but the former spirit of particularism still remained. The political thought of the country did not begin to keep pace with the change in economic life. The opening up of the country to settlement was looked upon as a distinctly provincial function.<sup>6</sup> The governments of the several colonies entered upon a policy of internal improvements at the very time when the growth of intercolonial intercourse was pointing the way to the necessity for a national consideration of all common interests.

The policy of independent action found further support in the fact that the colonies came into contact with one another in matters material rather than those of a moral or political nature. From the very force of circumstances, all new communities are primarily economic and not political organizations. And it was in the field of economics that the colonies came into sharpest competition. Questions of tariff, land policy, mining regulations, postal service, railroad construction, etc., were continually demanding consideration, and it was upon these very questions that the interests of the colonies most frequently clashed. Every government felt it to be its duty to protect and promote the interests of its own citizens. The executives of the several states became in fact, if not in name, the heads of rival corporations. Much of the legislation of the day took on a distinctly protective character. Measures were introduced with the deliberate purpose of injuring a neighboring colony. Intercolonial questions were treated as mere matters of bargain and sale. The materialistic conceptions of the business world superseded the ideals of a common citizenship. With the triumph of the policy of provincialism, the interests of the colonies drifted further and further apart and in some cases threatened to become permanently antagonistic.<sup>7</sup>

The political life of the time reflected the narrow-minded materialism of primitive communities. There were but few outstanding men in the local

<sup>6</sup> Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 99.

<sup>7</sup> Allin, *The Early Federation Movement in Australia*, 412.

legislatures, for there was little opportunity for distinction in public life. A few broad-minded men were to be found in the upper chambers of the respective colonies; but unfortunately they did not play an important part in local politics. The popular Houses were made up almost entirely of ordinary men of limited political knowledge and with practically no experience with affairs in the outside world. Their views were the views of their own particular constituencies; their philosophy that of the squatter, the miner, or the man of the street. They were immersed in the practical problems of economic development. Their patriotism was distinctly provincial. It was enough for them to look after the interests of their own province without troubling themselves about the welfare of the sister colonies. There was always a temptation for the baser politicians to exploit the unseemly rivalries of the colonies to their own personal advantage; and unfortunately there were altogether too many favorable opportunities to play the role of the pseudo-patriot. It was exceedingly difficult in such a parliamentary atmosphere to obtain a fair and impartial hearing for intercolonial questions. The plea of the federalists awakened little response in the hearts of the staunch states-righters. Questions of intercolonial concern were usually dismissed as of small immediate importance or subjected to the closest scrutiny to discover what bearing they might have on the colony's future. All federal proposals were looked upon with a certain amount of suspicion as involving a possible limitation of local autonomy or a malevolent design against the welfare of the colony. Every intercolonial agreement was at the mercy of any group of members whose interests were adversely affected thereby.

The difficulty of adjusting the common interests of the colonies was rendered all the greater by the instability of colonial administrations. Politics were as restless as the sea. Scarcely a season passed without a change of executive in one or more of the colonies.<sup>8</sup> South Australia in particular was subject to ministerial crises. The Australian colonies, in fact, bade fair to surpass the records of even the most revolutionary of the Central American states in the number of their political upheavals. The conduct of negotiations under such circumstances was most difficult and in some cases practically impossible. The coöperation of all the colonies was necessary to the settlement of any intercolonial question. The success or failure of any federal measure was dependent upon the attitude of the executive and the state of domestic politics in each colony at that particular moment. An untoward change of government might upset the whole course of negotiations; it might undo all that had been accomplished. The frequency of ministerial changes, moreover, prevented the governments from giving due

<sup>8</sup> Between 1856 and 1864 there were ten different ministries in South Australia, eight in Victoria, eight in New South Wales, seven in Tasmania, and six in New Zealand.

Coghlan, *The Seven Colonies of Australasia*, 41, 65, 121, 181, 255.

consideration to matters of intercolonial concern. The stress of the parliamentary struggle at home absorbed almost all the energies of the government and opposition. There was little opportunity for a careful study of the external relations of the colonies. In short, the consideration of intercolonial questions had to wait upon the exigencies of local politics and the humor or convenience of ministerial favor.<sup>9</sup> A new political issue, a parliamentary shuffle, or a general election might at any moment affect the policy of one or the other of the colonies and confound the whole plan for general co-operation. Time after time the most promising federal negotiations were wrecked upon this fatal reef.

This condition of political instability was accentuated by the failure of Australian politics to develop strong party organizations with a body of distinct political traditions.<sup>10</sup> Parties there were, but they existed in name rather than in principle. The materialization of local politics had wiped out whatever differences still survived in the creeds of the two great historic parties. The legislatures of all the colonies were given over to the struggle of contending groups of economic interests. Business and religion were the touchstones of political life. Political parties and principles gave place to personal rivalries and economic antagonisms. The game of politics was a battle for place and power. Factionalism reigned supreme. The governments of the day were dependent upon the uncertain support of groups of discordant members. The ministries likewise were seldom a political unit. Most frequently they would be found to be made up of rival politicians whom the political exigencies of the moment had drawn together in a temporary coalition. The foes of one day were the colleagues of the next. The platforms of the parties were readily adaptable to changes of circumstance. It was off with the old policy and on with the new. And yet these political inconsistencies seldom entailed any personal dishonor or stigma in the minds of the general public. They were rather looked upon as a natural expression of political conditions. Political opportunism was the order of the day. Parliamentary life was a fairly accurate reflection of unsettled social and economic conditions out of doors.

When the domestic affairs of the colonies were conducted according to such opportunist principles, it could scarcely be expected that intercolonial matters would be dealt with upon a higher plane. The question of intercolonial tariffs received the worst treatment of all. It was the "houn' dog" of Australian politics, the special object of partisan attacks. It had few friends and was kicked about from colony to colony. The governments would have gladly gotten rid of it if they could, but it persistently followed them around only to turn up at most inopportune moments. There was but

<sup>9</sup> Allin, *The Early Federation Movement of Australia*, 415.

<sup>10</sup> Jenks, *The Government of Victoria, Australia*, 378.

small political advantage to be secured even from the successful settlement of the border duty or other intercolonial questions. The border settlers, who were primarily interested in the promotion of intercolonial free trade, formed but an insignificant portion of the population of the colonies concerned; and they were too far removed from the capitals to make their claims most effectively felt in legislative circles. A portion of the commercial community in the three provincial capitals supported a more liberal policy in respect to intercolonial trade; but their influence was not sufficiently persistent or pronounced to overcome the more pressing demands of the particularistic interests. In short, a liberal intercolonial policy attracted but few votes in the legislature and commanded even less popular support out of doors. On the other hand there was the ever manifest danger of political defeat. Any government which ventured to take up this question found itself exposed to attack from within the colony as well as from without. The subject was one which lent itself to partisan attacks and flagrant misrepresentations. An agreement with the neighboring governments necessarily meant a compromise; it involved some concessions. But in this very fact there appeared a splendid opportunity for the opposition to accuse the government of sacrificing the interests of the colony and of truckling to its most insidious foes. However favorable the agreement, it was certain to involve a loss of revenue from the abolition of duties, and severer competition in respect to all such articles of import as were placed on the free list or admitted at a lower rate of duty; but the compensating advantages from the general increase in intercolonial trade were by no means as apparent to the legislature or the general public.

And even when the government was successful in overcoming the opposition at home, there was still the danger that the agreement might be defeated in the neighboring provinces. In fact such was the mutual suspicion of the legislatures that the adoption of the agreement in one colony increased its liability to rejection in the next. The mere fact of acceptance was sure to arouse the distrust of the other legislatures. It was immediately seized upon by the opposition in those colonies as the most conclusive proof of the dangerous one-sided character of the agreement. It constituted in itself the most damning indictment of the incapacity of their own government. The old mercantile doctrine of the unilateral advantage of trade still found acceptance in the Australian legislatures. Every debate on an intercolonial agreement resolved itself into a controversy over the question as to which of the colonies had gotten the better of the contract.

All these factors combined to defeat the plan for an assimilation of tariffs. The tariff more than any other issue aroused the latent spirit of provincialism in all the colonies.<sup>11</sup> It was "the lion in the path" of all federal

<sup>11</sup> Moore, *The Commonwealth of Australia*, 24.

measures. To it, more than to any other cause, must be attributed the failure of the successive efforts of the imperial and colonial governments to improve the political and economic relations of the colonies. Isolation begat provincialism, provincialism begat protection, and protection begat colonial envy, bitterness, and strife.<sup>12</sup>

Thus ends the second phase of the history of the tariff relations of the Australian colonies. The period of border conventions was fast drawing to a close. The Murray River agreements had proved but a partial and ephemeral solution of the fiscal relations of the colonies. The larger movement for an assimilation of tariffs had likewise proved futile. The failure of this movement marked the temporary triumph of the spirit of provincialism.

But the day of small things was passing away. A new spirit of Australian nationalism was beginning to find lodgement in the hearts of the younger generation. New imperial problems come upon the scene. The political and economic life of the colonies gradually loses its purely local significance and begins to take on a true national character. But this much more interesting phase of Australian history must be reserved for future consideration.



## APPENDICES





## APPENDIX A

*An Act to regulate the collection and distribution of Duties upon Goods intended for consumption in the Colonies of New South Wales and Victoria, carried by way of the River Murray*

[Assented to, March 5, 1856.]

WHEREAS, by means of the establishment of Steam Communication on the River Murray, a traffic hath arisen between this Province and the Colonies of New South Wales and Victoria, and goods liable to the payment of duty in this Province and in the said Colonies respectively, are imported into this Province, and are conveyed to and landed in such Colonies, for the purpose of consumption there: And whereas, in order to prevent the interruption to such traffic which would arise from the levying of duties upon such goods at the respective places in the said Colonies whereat the same may be landed, arrangements have been entered into between the respective Governors of this Province and of the said Colonies, that all duties to be paid in respect of the same goods should be collected by the Officers of Customs of this Province, according to the scale of duties leviable thereon in this Province, and that the amount of such duties shall be paid over to the respective Governments of the said Colonies, in certain proportions: And whereas, in pursuance of such arrangement, various duties have been collected in the Province upon goods imported liable to duty, which have been afterwards conveyed to the said Colonies respectively, for consumption there: And whereas it is expedient to authorize and sanction the payment of the duties so collected, to the said respective Governments of the said Colonies, and also to provide for the collection and distribution of duties in respect of all goods liable to duty, as hereinafter mentioned, which may hereafter be imported into this Province for consumption in the said Colonies, or either of them—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council of the same, as follows:

1. It shall be lawful for the Governor, by warrant under his hand, to authorize the payment to the Governments of New South Wales and Victoria respectively, in such proportion as may be agreed upon, of all duties which have been or which at any time hereafter may be received or collected in this Province, in respect of any goods liable to duty in the Colonies of New South Wales and Victoria respectively, which shall have been imported by way of the said River Murray into the said Colonies of New South Wales and Victoria, or either of them; and such warrant, and the receipt of any person authorized by the Governor-in-Chief of the said Colonies respectively to receive the same, shall be a sufficient discharge to the person paying any sums mentioned in such warrant and receipt.

2. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation in the *South Australian Government Gazette*, to make, and from time to time to vary and alter, regulations for the entry outwards of all goods liable to duty which shall be intended to be imported into the said Colonies, or either of them, by way of the said River, and for the due discharge of such goods beyond the boundaries of this Province, and for all such other matters as may be requisite for the due collection of and accounting for all duties payable upon or in respect of such goods.

3. All acts heretofore done, and all payments heretofore made to the said Government of the said Colonies, or either of them, by or by authority of the Governor, under and in pursuance of the said arrangement for the collection and payment of duties upon goods imported into the said Colonies by way of the said River Murray, shall have the same force and validity as though such acts had been done or payments made subsequent to the passing of this Act.

## APPENDIX B

*An Act to regulate the collection and distribution of Duties upon Goods intended for consumption in the Colonies of New South Wales and Victoria, carried by way of the River Murray.*

[Assented to, 19th November, 1857.]

WHEREAS, by means of the establishment of Steam Communication on the River Murray, a traffic hath arisen between the Province of South Australia and the Colonies of New South Wales and Victoria, and goods liable to the payment of duty in the said Province and in the said Colonies respectively, are imported into the said Province, and are conveyed to and landed in such Colonies, for the purpose of consumption there: And whereas, in order to prevent the interruption to such traffic which would arise from the levying of duties upon such goods at the respective places in the said Colonies whereat the same may be landed, it is expedient to authorize the collection of duties in the said Province upon such goods according to any scale of duties which may for the time being be agreed upon with the Governments of the said Colonies, and also the payment of such duties to the said Governments respectively, in such proportions as may from time to time be agreed upon—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province in this present Parliament assembled, as follows:

1. An Act No. 6 of 1855-6, intituled "An Act to Regulate the Collection and Distribution of Duties upon Goods intended for consumption in the Colonies of New South Wales and Victoria, carried by way of the River Murray," is hereby repealed, save as regards all things lawfully done or authorized to be done before the passing hereof.

2. It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation in the *South Australian Government Gazette*, to make, and from time to time to vary and alter, regulations for the entry outwards of all goods liable to duty which shall be intended to be imported into the said Colonies, or either of them, by way of the said River, and for the due discharge of such goods beyond the boundaries of the said Province, and for all such other matters as may be requisite for the due collection of and accounting for all duties payable upon or in respect of such goods.

3. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by Proclamation in the *South Australian Government Gazette*, to prescribe and define, and to alter and vary, the duties which shall be leviable upon any goods imported into the said Province, intended for consumption in the said Colonies, or either of them, or water borne upon the said River Murray, for exportation into the said Colonies, or either of them, in accordance with any tariff for the time being which may be agreed upon by the Governments of the said Colonies of New South Wales and Victoria and to make such regulations as may be necessary for the entry inwards of such goods as shall be declared for consumption in the said Colonies, or either of them, upon importation, and for the transit of the same through the said Province, and for allowing a drawback of any duties which may have been paid upon any such goods in accordance with any tariff for the time being in force in the said Province, and for setting off such drawback against any duties leviable under and by virtue of any such Proclamation as aforesaid; and such Proclamation, when so made, shall have the force of law.

4. It shall be lawful for the Governor, by warrant under his hand, to authorize the payment to the Governments of New South Wales and Victoria respectively, in such proportion as may be agreed upon, of all duties which may be received or collected in the said Province, under the authority hereof, in respect of any goods which shall be imported by way of the said River Murray into the said Colonies of New South Wales and Victoria, or either of them; subject, however, to such charge for collecting the same as may be agreed upon between the Government of the said Province and the Governments of New South Wales and Victoria; and such warrant, and the receipt of any person authorized by the Governors of the said Colonies respectively to receive the same, shall be a sufficient discharge to the person paying any sums mentioned in such warrant and receipt.







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